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Secretary of State

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ILLINOIS REGISTER

Rules of Governmental Agencies

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1990

Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1989	Dec. 26, 1989	1	Jan. 5, 1990	June 26, 1990	July 3, 1990	28	July 13, 1990
Dec. 26, 1990	Jan. 2, 1990	2	Jan. 12, 1990	July 3, 1990	July 10, 1990	29	July 20, 1990
Jan. 2, 1990	Jan. 9, 1990	3	Jan. 19, 1990	July 10, 1990	July 17, 1990	30	July 27, 1990
Jan. 9, 1990	Jan. 16, 1990	4	Jan. 26, 1990	July 17, 1990	July 24, 1990	31	Aug. 3, 1990
Jan. 16, 1990	Jan. 23, 1990	5	Feb. 2, 1990	July 24, 1990	July 31, 1990	32	Aug. 10, 1990
Jan. 23, 1990	Jan. 30, 1990	6	Feb. 9, 1990	July 31, 1990	Aug. 7, 1990	33	Aug. 17, 1990
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Feb. 13, 1990	Feb. 20, 1990	9	Mar. 2, 1990	Aug. 21, 1990	Aug. 28, 1990	36	Sept. 7, 1990
Feb. 20, 1990	Feb. 27, 1990	10	Mar. 9, 1990	Aug. 28, 1990	Sept. 4, 1990	37	Sept. 14, 1990
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Mar. 6, 1990	Mar. 13, 1990	12	Mar. 23, 1990	Sept. 11, 1990	Sept. 18, 1990	39	Sept. 28, 1990
Mar. 13, 1990	Mar. 20, 1990	13	Mar. 30, 1990	Sept. 18, 1990	Sept. 25, 1990	40	Oct. 5, 1990
Mar. 20, 1990	Mar. 27, 1990	14	Apr. 6, 1990	Sept. 25, 1990	Oct. 2, 1990	41	Oct. 12, 1990
Mar. 27, 1990	Apr. 3, 1990	15	Apr. 13, 1990	Oct. 2, 1990	Oct. 9, 1990	42	Oct. 19, 1990
Apr. 3, 1990	Apr. 10, 1990	16	Apr. 20, 1990	Oct. 9, 1990	Oct. 16, 1990	43	Oct. 26, 1990
Apr. 10, 1990	Apr. 17, 1990	17	Apr. 27, 1990	Oct. 16, 1990	Oct. 23, 1990	44	Nov. 2, 1990
Apr. 17, 1990	Apr. 24, 1990	18	May 4, 1990	Oct. 23, 1990	Oct. 30, 1990	45	Nov. 9, 1990
Apr. 24, 1990	May 1, 1990	19	May 11, 1990	Oct. 30, 1990	Nov. 5, 1990	46	Nov. 16, 1990
May 1, 1990	May 8, 1990	20	May 18, 1990	Nov. 5, 1990	Nov. 13, 1990	47	Nov. 26, 1990 (Mon.)
May 8, 1990	May 15, 1990	21	May 25, 1990	Nov. 13, 1990	Nov. 20, 1990	48	Nov. 30, 1990
May 15, 1990	May 22, 1990	22	June 1, 1990	Nov. 20, 1990	Nov. 27, 1990	49	Dec. 7, 1990
May 22, 1990	May 29, 1990	23	June 8, 1990	Nov. 27, 1990	Dec. 4, 1990	50	Dec. 14, 1990
May 29, 1990	June 5, 1990	24	June 15, 1990	Dec. 4, 1990	Dec. 11, 1990	51	Dec. 21, 1990
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June 19, 1990	June 26, 1990	27	July 6, 1990	Dec. 24, 1990	Dec. 31, 1990	2	Jan. 11, 1991

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).



DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: SCHOOL DISTRICT #428

2) Code Citation: 20 Ill. Adm. Code 405

3) Section Numbers: Proposed Action:
 405.10 Amend
 405.15 Amend
 405.17 Amend
 405.20 Amend
 405.30 Amend
 405.40 Repeal
 405.50 Amend
 405.55 Add
 405.60 Amend
 405.70 Amend

4) Statutory Authority: Implementing and authorized by Sections 3-2-2 and 3-6-3 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2 and 1003-6-3, as amended by P.A. 86-1373, effective September 10, 1990).

5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to update statutory citations, add more definitions for clarity, make editorial changes, include requirements for enrollment in and removal from educational programs, and to promulgate permanent rules necessary for the administration of educational good conduct credits.

6) Will this proposed rule replace an emergency rule currently in effect?
 Yes

7) Does this rulemaking contain an automatic repeal date? Yes
 X No

8) Do these proposed amendments contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The Department of Corrections School District #428 shall afford committed persons educational opportunities to the extent possible, consistent with safety and security concerns, and shall award educational good conduct credits to eligible committed persons in accordance with Public Act 86-1373 and rules promulgated herein.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

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William H. Craine, Ph.D., Deputy Director
 Illinois Department of Corrections
 1301 Concordia Court
 P. O. Box 19277
 Springfield, Illinois 62794-9277

All written comments received within 45 days of the date of this publication will be considered.

12) Initial Regulatory Flexibility Analysis: Not required; this rulemaking does not affect small businesses.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CORRECTIONS
NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER 1: DEPARTMENT OF CORRECTIONS
SUBCHAPTER d: PROGRAMS AND SERVICES

PART 405
SCHOOL DISTRICT #428

Section

- 405.10 Applicability
405.15 Responsibilities
405.17 Definitions
405.20 Adult and Juvenile Curricula Educational Programs
405.30 Assistance to Community Services Division
405.40 Evaluation (Repealed)
405.50 Adult Basic Education Attendance
405.55 Educational Good Conduct Credits
405.60 Juvenile Educational Attendance
405.70 Suspension of Programs
- AUTHORITY: Implementing Sections 3-2-2, 3-6-2, 3-6-3, 3-8-3, 3-9-1, 3-10-2 and 3-12-3 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2, 1003-6-2, 1003-6-3, 1003-8-3, 1003-9-1, 1003-10-2 and 1003-12-3, as amended by P.A. 86-1373, effective September 10, 1990) and Section 13-40 et seq. of the Illinois School Code (Ill. Rev. Stat. 1989, ch. 122, par. 13-40 et seq.) and authorized by Sections 3-2-2 and 3-7-1 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, par. 1003-2-2 and 1003-7-1).

SOURCE: Adopted at 8 Ill. Reg. 14624, effective August 1, 1984; amended at 11 Ill. Reg. 2742, effective February 1, 1987; emergency amendments at 14 Ill. Reg. 19389, effective December 1, 1990, for a maximum of 150 days; amended at ___ Ill. Reg. ___, effective _____.

Section 405.10 Applicability

This Part applies to the Adult, Juvenile and Community Services Divisions of the Department of Corrections (Department).

(Source: Amended at ___ Ill. Reg. ___, effective _____.)

Section 405.15 Responsibilities

- a) Unless otherwise specified, the Director, Chief Administrative Officer, or Superintendent, or Educational Administrator may delegate responsibilities stated in this Part to another person or persons or designate another person or persons to perform the duties specified.

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- b) No other individual may routinely perform duties whenever a rule in this Part specifically states the Director, Chief Administrative Officer, or Superintendent, or Educational Administrator shall personally perform the duties. However, the Director, or Chief Administrative Officer, Superintendent, or Educational Administrator may designate another person or persons to perform the duties during periods of his temporary absence or in an emergency.

(Source: Amended at ___ Ill. Reg. ___, effective _____.)

Section 405.17 Definitions

"Achievement test" means a nationally normed instrument, which has been personally approved by the Superintendent of School District #428, that measures an individual's educational grade level.

"Educational goal" means a written statement, prepared by Department staff and signed by the committed person, that identifies the educational program in which the committed person is enrolled, the goals the committed person is expected to achieve, and the specific time period in which the committed person is to achieve the goals.

"Educational programs" means courses of academic and vocational instruction offered to persons committed to the Adult and Juvenile Divisions as approved by School District #428; or courses of academic and vocational instruction offered in the free community which are available to persons committed to the Community Services Division as approved by the Chief Administrative Officer.

"Full-time student" means a committed person who is enrolled in an educational program that has classes that are normally scheduled to meet five instructional days a week, except for holidays; or a committed person who is enrolled in college academics for a minimum of six credit hours per module or 12 credit hours per semester. In addition, a person committed in the Adult Division must have his primary assignment as a full-time educational program and, except as approved by the Chief Administrative Officer, shall not have a job assignment.

"Goal period" means the specific number of instructional days of attendance or days for which educational goals are established.

"90 instructional days day program" means a period of 90 days of remedial education, excluding days of absence or days in which no instruction was offered.

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"Instructional day" means a day in which a minimum of 90 minutes of instruction is provided.

"Sexually dangerous person" means any person as defined in Ill. Rev. Stat. 1985 1989, ch. 38, par. 105-1.01.

"Superintendent" means the Superintendent of the Department of Corrections School District #428.

"Technical violator" means a committed person who has been returned to a Department facility due to a violation of the conditions of his parole or mandatory supervised release, but does not include a committed person who has been convicted of a new offense.

"Working days" means Monday through Friday, excluding State holidays.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 405.20 Adult and Juvenile Curricula Educational Programs

- a) Educational and vocational training opportunities The opportunity for educational programs shall be available for committed persons in the Adult and Juvenile Divisions through the Department of Corrections School District #428. Nothing in this Part shall be construed to require educational opportunities for all committed persons.

a1) Adult Division educational programs shall include:

- 1A) Adult basic education and General Educational Development (G.E.D.) training;
- 2B) Special education;
- 3C) Vocational education and career counseling; and
- 4D) Post-secondary education, opportunities, when where possible.

b2) Juvenile Division educational programs shall include:

- 1A) Basic education and G.E.D.;
- 2B) High school credits;
- 3C) Special education;

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4D) Vocational education; and

5E) Post-secondary education, opportunities, when where possible.

b) Committed persons shall, upon request, be considered for enrollment in an educational program for which they are eligible or placement on the waiting list for the program if one exists. Waiting lists shall be maintained in chronological order.

c) In determining eligibility for enrollment in educational programs the Department shall consider, among other factors, the committed person's composite scores on achievement tests, the safety and security of the facility or any person, staff recommendations, requirements for admission to specific programs, administrative concerns, and the committed person's institutional behavior, disciplinary record, educational record, projected release date, and medical and mental health status.

d) In the Adult Division, committed persons may be eligible to enroll in:

- 1) Adult Basic Education if they test below the 6.0 grade level.
- 2) G.E.D. training if they test at the 6.0 grade level or above and they do not have a verified GED certificate or a High School diploma.
- 3) Special education regardless of test scores.
- 4) School District #428 vocational education regardless of test scores.
- 5) College vocational programs if they test at the 6.0 grade level or above and the college policy permits admission.
- 6) Two-year college degree academic programs if they have a verified GED certificate or High School diploma.
- 7) Four-year college degree academic programs if they have a verified GED certificate or High School diploma, and they have 30 hours of college transfer credit.

e) In the Juvenile Division, committed persons may be eligible to enroll in:

- 1) Basic Education if they test below the 6.0 grade level.

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- 2) G.E.D. Training if they test at the 6.0 grade level or above and they do not have a verified GED certificate or High School diploma.
- 3) High School credits if they test at the 6.0 grade level or above and they do not have a verified GED certificate or High School diploma.
- 4) Special Education regardless of test scores.
- 5) School District #428 vocational education if they test at the 3.0 grade level or above.
- 6) College vocational programs if they test at the 6.0 grade level or above and the college policy permits admission.
- 7) Two-year college academic programs if they have a verified GED certificate or High School diploma.
- f) Committed persons shall be required to attend and actively participate in classes for which they are enrolled and shall be subject to discipline under 20 Ill. Adm. Code 504, unless absent due to verified illnesses, approved visits, court writs, furloughs discipline, lockdowns, and other reasons approved by the Chief Administrative Officer. Active participation shall mean, but shall not be limited to, instances in which the committed person is attentive, responsive, and cooperative and completes assigned work.

- g) Committed persons shall adhere to attendance requirements of the educational program in which they are enrolled:

- 1) Committed persons enrolled in non-college academic programs in the Adult and Juvenile Divisions shall be required to attend and to actively participate in the number of instructional days specified to complete the program and shall not be absent from the program or shall not be documented as not actively participating in the program for more than 30 instructional days, not including days absent due to lockdowns.
- 2) Persons committed in the Community Services Division and committed persons enrolled in college academic courses shall attend scheduled classes and shall not be absent more than allowed under the requirements of the educational provider or the correctional facility policy. Committed persons shall be advised of the specific requirements of the program in which they are enrolled.

- h) Committed persons may be removed from educational programs due to:

- 1) Disciplinary action.
 - 2) Failure to adhere to attendance requirements.
 - 3) Administrative reasons approved by the Educational Administrator or the Chief Administrative Officer including, but not limited to, disruptive behavior, lack of active participation, termination or suspension of the program, and safety and security reasons.
 - 4) The committed person's transfer to another facility or program.
- (Source: Amended at Ill. Reg. _____, effective _____)

Section 405.30 Assistance to Community Services Division

Financial counseling and technical assistance in securing remedial education, G.E.D. training, special education, vocational training and post-secondary education opportunities may be provided by the Department of Corrections School District #428 to committed persons of the Community Services Division.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 405.40 Evaluation (Repealed)

Educational and vocational programs shall be evaluated on an annual basis. Criteria considered for the evaluation may include, among other factors:

- a)---Scores of students on objective tests;
 - b)---Scores of criterion referenced tests developed by Department personnel;
 - c)---Composite academic level of students received and paroled by the Department; and
 - d)---Results of on-site annual audits of educational programs:
- (Source: Repealed at Ill. Reg. _____, effective _____)

Section 405.50 Adult Basic Education Attendance

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- a) All persons committed to the Adult Division of the Department on or after January 1, 1987, whose period of incarceration is at least two years or more; or who have been committed as sexually dangerous persons, shall be required to receive a composite achievement test score of 6.0 or greater in reading and mathematics or attend a minimum of 90 instructional days in an Adult Basic Education program for reading and mathematics, except:
- 1) Those persons serving life or death penalty sentences; or
 - 2) Other persons who are specifically exempted from this requirement by the Chief Administrative Officer of the facility where the committed person is assigned and the Superintendent based on, but not limited to, security or health reasons, the facility's inability to meet the committed person's unique educational needs, or the facility's inability to provide or complete instruction in the time remaining prior to the committed person's release or discharge date; or
 - 3) Those persons who, upon completion of 45 instructional days, have received a composite achievement test score of 6.0.
- b) The requirements in this Section do not apply to technical violators who have previously completed the 90 instructional day program and who scored 6.0 or greater upon completion of the program.
- c) Credit for class attendance shall only be given by the educational administrator Educational Administrator for those days in which the committed person actively participates in the program in accordance with Section 405.20(f). Active participation shall mean, but shall not be limited to, instances in which the committed person is attentive, responsive and cooperative and completes assigned work.
- d) Where a committed person's 90 instructional day program has been terminated due to excessive absenteeism in accordance with Section 405.20(g) and (h), interrupted for a total period in excess of 30 instructional days, the 90 instructional day period program shall recommence with no credit given for days previously attended.
- 1)--The total period of interruption shall include, but not be limited to; days absent due to illness; visits; court writs; and discipline and days not credited due to lack of participation.
- 2)--The total period of interruption shall not include days absent due to transfers or lockdowns; or days when no instruction was offered:

- e) When a committed person is transferred to another facility prior to completion of the program, a record of the person's attendance shall be submitted to the receiving facility. His program shall be continued at the receiving facility, whenever feasible, upon enrollment in the program or the committed person shall be placed on a waiting list if one exists, unless the committed person is no longer required to participate in the program in accordance with Section 405.50(a).
- f) Refusal by any committed person to attend the Adult Basic Education program required by this Section shall constitute grounds for disciplinary action in accordance with 20 Ill. Adm. Code 504: Subpart A 504. Subpart A.
- g) Upon completion of the 90 instructional day program, the committed person shall be retested, and if a composite score of at least 6.0 is not received, the person shall be encouraged, but not required, to remain in an educational program.
- h) Committed persons subject to the provisions of this Section who have not attained the 6.0 achievement level:
- 1)--Shall not be eligible for any job assignment pay that exceeds the level of pay received for attendance in the Adult Basic Education program, unless an exemption is granted by the Chief Administrative Officer and the Superintendent due to the committed person's educational handicap, documented by his educational records, which would preclude any reasonable expectation that the committed person could attain a 6.0 achievement level; the projected length of time the committed person may have to wait prior to enrollment in the Adult Basic Education Program; or the reasons provided in Subsection (a)(2) of this Section; or as otherwise approved by the Department.
 - 2)--Shall not be eligible for enrollment in any college credit programs:
- (Source: Amended at Ill. Reg. _____, effective _____)
- Section 405.55 Educational Good Conduct Credits
- a) Committed persons who enroll full-time in an academic or vocational education program approved by the Department shall be eligible to receive educational good conduct credits provided:
- 1) They are eligible to receive good time in accordance with 20 Ill. Adm. Code 107. Subpart B;

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- 2) They have not been convicted of first degree murder, second degree murder, or a Class X felony;
 - 3) They have not been convicted of a felony which was committed after a previous award of educational good conduct credits; and
 - 4) They achieve the educational goals established by the Department within a specified time period.
- b) Goals shall be established in writing for committed persons who are eligible to receive educational good conduct credits and shall be signed by the committed person. The goal statement shall include the goal period, attendance requirements, and the educational goals the committed person is expected to achieve.
- c) The goal period for persons committed in the Adult and Juvenile Divisions who are enrolled in any program except college academic programs shall be 90 instructional days of attendance or the number of instructional days of attendance required to complete the program if less than 90 instructional days.
- d) The goal period for persons committed in the Adult and Juvenile Divisions who are enrolled in college academic programs and for persons committed in the Community Services Division shall be the period of time during which the classes are scheduled.
- e) Educational goals shall be determined based on the committed person's current level of achievement and ability. Educational goals may include, but not be limited to, one or more of the following factors:
- 1) Achievement of a specified grade level;
 - 2) Attainment of a GED certificate;
 - 3) Attainment of a specific number of high school or college credits;
 - 4) Achievement of specified skills; and/or
 - 5) Maintaining a grade of "C" or better in each class or maintaining a passing grade where a pass/fail grading system is used.
- f) Educational goals may, with the approval of the Educational Administrator or the Chief Administrative Officer, be revised in writing and signed by the committed person if it is determined that

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- the original educational goals need to be revised based, among other matters, on a reassessment of the committed person's level of competency or ability. However, the goal period may not be changed.
- 4) When a committed person completes the educational program early, the goal period shall be revised to the date of completion and the committed person shall be eligible to receive educational good conduct credits for the revised goal period.
 - h) Committed persons may be removed from the educational program in accordance with Section 405.20(h).
- 1) If the committed person is removed from the educational program due to placement in protective custody, non-voluntary transfers for other than disciplinary reasons, termination or suspension of the educational program by the Department, release on parole or mandatory supervised release, or other reasons approved by the Chief Administrative Officer, the goal period may be revised to the date removed from the program. In determining whether to revise a goal period, the Department shall consider, among other factors, the committed person's medical and mental health status, protection needs, projected release date, and time in the program. The committed person may be eligible to receive educational good conduct credits for the revised goal period provided satisfactory progress has been made towards achieving stated goals.
 - 2) If the committed person is removed from the educational program prior to program completion due to reasons other than those stated in Subsection (h)(1) of this Section, the committed person shall not receive any educational good conduct credit for participation in the educational program.
- 1) Within 15 working days, whenever feasible, of completion of the goal period or removal from the program, the Educational Administrator or Chief Administrative Officer shall:
 - 1) Determine whether or not the committed person achieved the stated educational goals, complied with attendance requirements, or was making satisfactory progress toward achieving such goals in accordance with Subsection (h)(1) of this Section.
 - 2) Document the number of days, if any, for which the committed person is eligible to receive educational good conduct credits. This shall be the number of calendar days during the goal

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period, less days absent and days not attended due to lockdowns or class cancellations.

3) Document the reasons for ineligibility for award of educational good conduct credits.

4) Ensure educational good conduct credits are computed at the rate of .25 of the number of days eligible for such award.

l) The award of educational good conduct credits shall be subject to the review and approval of the Director. A copy of the award of educational good conduct credits shall be filed in the committed person's master record file.

k) Committed persons shall be advised in writing of the award of educational good conduct credits or the reasons for ineligibility of the award.

l) Committed persons may grieve the establishment of goals or the decision not to award educational good conduct credits under 20 Ill. Adm. Code 504. Subpart F.

m) New goal periods and goals shall be established upon re-enrollment.

(Source: Added at ____ Ill. Reg. ____, effective ____)

Section 405.60 Juvenile Educational Attendance

a) All persons committed to the Juvenile Division of the Department who have not received their high school diploma or G.E.D. certificate shall be required to participate in an educational program, unless specifically exempted by the Chief Administrative Officer and the Superintendent. The exemption shall be based on, but not limited to, health, safety or security reasons, and resources available.

b) The extent and length of the educational program shall be based, among other factors, upon the needs and characteristics of the committed person, resources available, availability of programs, administrative concerns, and safety and security of the facility or any person.

c) --Daily attendance shall be required; unless the committed person is absent due to; among other matters; medical/treatment activities; confinement; court appearances or visitation; Refusal by any committed person to attend required educational programs shall

constitute grounds for disciplinary action in accordance with 20 Ill. Adm. Code 504: Subpart B;

(Source: Amended at ____ Ill. Reg. ____, effective ____)

Section 405.70 Suspension of Programs

Unless otherwise provided by law, any of the provisions of this Part may be suspended by the Director for reasons including, but not limited to, safety and security, budgetary constraints, insufficient program resources, inadequate space or unavailability of educational staff.

(Source: Amended at ____ Ill. Reg. ____, effective ____)

NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: PRACTICE IN ADMINISTRATIVE HEARINGS
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3) Section Numbers: Proposed Action:
104.250 Amendment
104.272 Amendment
104.304 Amendment
104.330 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Par. 12-13)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking makes technical changes to these rules by deleting redundant language and correcting obsolete cross-references.
- 6) Will these Proposed Amendments replace Emergency Amendments currently in effect? No
Yes ☐ No ☒
- 7) Does this rulemaking contain an automatic repeal date?
Yes ☐ No ☒
- 8) Do these Proposed Amendments contain incorporations by reference? No
- 9) Are there any other Proposed Amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation
104.45 Amendment November 30, 1990
(14 Ill. Reg. 18705)

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Dan Leikvold, Office of the General Counsel, Illinois Department of Public Aid, 100 South Grand Avenue East, Springfield, Illinois 62762 (217/782-1233). The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

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- 12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER a: GENERAL PROVISIONS

PART 104

PRACTICE IN ADMINISTRATIVE HEARINGS

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Section	
104.1	Assistance Appeals
104.10	Initiation of Appeal Process
104.11	Pre-Appeal Review
104.12	Notice of Hearing
104.20	Conduct of Hearings
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104.22	Appellant Participation in Hearing
104.23	Evidentiary Requirements
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104.35	Amendment of Appeal
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104.45	Postponement of Hearings
104.50	Withdrawal of Appeal
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104.70	Final Administrative Decision
104.80	Public Aid Committee

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

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104.100	Responsible Relative and Joint Payee Petitions
104.101	Petition for Hearing
104.102	Conduct of Administrative Support Hearings
104.103	Conduct of Hearings to Contest the Determination of Past-Due Support or of Share of Jointly-Owned Funds
104.104	Conduct of Hearings to Stay Service of an Administrative Order for Withholding or Notice of Delinquency, or to Modify, Suspend or Terminate an Administrative Order for Withholding

SUBPART C: MEDICAL VENDOR HEARINGS

Section	
104.200	Applicability
104.202	Definitions
104.204	Notice of Denial of An Application
104.206	Notice of Intent to Recover Money

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Section	
104.208	Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement
104.210	Right to Hearing
104.212	Prior Factual Determinations
104.215	Notice of Formal Conference
104.216	Formal Conference on Recovery of Money
104.217	Purpose of Formal Conference
104.220	Notice of Hearing
104.221	Issues at Particular Hearings
104.225	Legal Counsel
104.226	Appearance of Attorney or Other Representative
104.230	Notice, Service and Proof of Service
104.231	Form of Papers
104.235	Discovery
104.240	Conduct of Hearings
104.241	Amendments
104.242	Motions
104.243	Subpoenas
104.244	Burden of Proof
104.245	Witness at Hearings
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104.270	Time Limits for Hearings
104.271	Continuances and Extensions
104.272	Withholding of Payments During Pendency of Proceedings
104.273	Continuation of Payments During Pendency of Proceedings
104.274	Denial of Payments for Services During Pendency of Proceedings
104.280	Record of Hearings
104.285	Failure to Appear or Proceed
104.290	Recommended Decision
104.295	Director's Decision

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS
AGAINST SKILLED NURSING FACILITIES AND INTERMEDIATE CARE
FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section	
104.300	Authority
104.302	Definitions
104.304	Department Actions Against Nursing Homes Facilities
104.310	Certification
104.320	Joint Administrative Hearing
104.330	Facilities Certified Under Both Medicare and Medicaid

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SUBPART E: FOOD STAMP ADMINISTRATIVE
DISQUALIFICATION HEARINGS

SUBPART C: MEDICAL VENDOR HEARINGS

Section
104.400 Suspected Intentional Violation of the Program
104.410 Advance Notice of Administrative Disqualification
Hearing
104.420 Postponement of Hearing
104.430 Administrative Disqualification Hearing Procedures
104.440 Failure to Appear
104.450 Participation While Awaiting a Hearing
104.460 Consolidation of Administrative Disqualification
Hearing with Fair Hearing
104.470 Administrative Disqualification Hearing Decision and
Notice of Decision
104.480 Appeal Procedure

SUBPART F: INCORPORATION BY REFERENCE

Section
104.800 Incorporation By Reference
AUTHORITY: Implementing Sections 11-8 et seq., 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 11-8 et seq., 12-4.9, 12-4.25 and 12-13)

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11 pg. 151 effective March 9, 1978 for a maximum of 150 days; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38 effective March 1, 1979; amended at 4 Ill. Reg. 21, p. 80, effective May 8, 1980; peremptory amendment 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753 effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at ____ Ill. Reg. ____, effective ____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 104.250 Official Notice

a) Official notice may be taken of:

- 1) Matters of which the Circuit Courts of this State may take judicial notice.
- 2) In addition, official notice may be taken of matters which in prior administrative hearings within and without the agency relating to the vendor or individuals associated with the vendor (including findings and evidence made in hearings initiated prior to the effective date of these rules).

A) persons with management responsibility for the vendor;

B) an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporation;

C) an owner of a sole proprietorship which is a vendor;

D) a partner in a partnership which is a vendor;

3) Generally recognized technical or scientific facts within the agency's specialized knowledge;

4) Generally recognized technical, scientific or customary and ordinary procedures and operation without the agency.

b) For purposes of this Section, "individuals associated with the vendor" shall mean:

1) persons with management responsibility for the vendor;

2) an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor;

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Section 104.250 Official Notice (Cont'd.)

Section 104.272 Withholding of Payments During Pendency of Proceedings (Cont'd.)

- 3) an owner of a sole proprietorship which is a vendor or
- 4) a partner in a partnership which is a vendor.
- c) Parties shall be notified either before or during a hearing, or by reference in preliminary reports, or otherwise, of the material noticed, including any staff memoranda or data to be offered as evidentiary matter during the course of the hearing, and they shall be afforded an opportunity to contest the material so noticed. Testimony of the agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 104.272 Withholding of Payments During Pendency of Proceedings

- a) Payments on pending and subsequently submitted bills may be withheld during the pendency of the administrative proceeding, except that if a final administrative decision has not been issued within 120 days of service of the notice of intent to terminate, unless delay has been caused by the vendor, payment can no longer be withheld.

- b) This 120 day limit may be extended if:

- 1) The extension is mutually agreed to by the Department and the vendor.
- 2) If delay has been caused by the vendor, the 120 day limit will be extended by the number of days the vendor has caused the proceeding to be delayed. Whenever a request by the vendor or his authorized representative to continue or reschedule a hearing results in a hearing session being held subsequent to the date originally set by the Department for such hearing session, such request shall constitute a delay caused by the vendor equal to the number of days between the new hearing date and the date originally scheduled. Approval of any of the following or

other similar requests will also be considered a delay caused by the vendor:

- A) that a period of preparation for written submissions or oral arguments be allowed;
- B) that the time for filing written exceptions under the 89 Ill. Adm. Code ~~140.12-104.290~~ be extended.
- c) If the vendor is terminated as a result of final agency action, payments or credit for any services rendered subsequent to receipt of the notice of intent to terminate shall be denied. The vendor will receive payment or credit for services rendered prior to receipt of the notice of intent to terminate.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section 104.304 Department Actions Against Nursing Homes Facilities

- a) A single administrative hearing procedure for skilled nursing facilities and intermediate care facilities will be followed in those cases where:
 - 1) The Department of Public Aid is seeking to deny, suspend or terminate the facility's participation in the Medical Assistance Program pursuant to 89 Ill. Adm. Code ~~140.11-through-140.12-140.14~~ or ~~140.16~~; and
 - 2) The Department of Public Health, seeks to deny, terminate or refuse to renew the facility's certification to participate in the Medicaid Program.
- b) These rules shall not apply when the Department of Public Aid is seeking to deny, suspend or terminate the facility's participation in the Medical Assistance Program pursuant to 89 Ill. Adm. Code ~~140.5-and-~~

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Section 104.304 Department Actions Against Nursing Homes Facilities (Cont'd.)

140-6-140.14 or 140.16 but no action is being taken by the Department of Public Health to deny, terminate or fail to renew the facility's certification to participate in the Medicaid program.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 104.330 Facilities Certified Under Both Medicare and Medicaid

a) If a SNF is participating, or seeking to participate in both Medicare and Medicaid, and if the basis for denial, termination or non-renewal of certification and participation in Medicaid is also a basis for the denial, termination or non-renewal of participation in Medicare, the Department shall notify the facility that:

1) The facility is entitled to the review procedures specified or referred to in 42 CFR 405, Subpart D, in lieu of the procedures specified or referred to in these rules; and

2) A final decision entered under the Medicare review procedures shall be binding on the issue of certification for purposes of Medicaid participation.

b) The Department of Public Aid may continue to seek to deny, suspend or terminate participation in the Medical Assistance Program on the basis of non-certification issues for facilities participating or seeking to participate under both Medicare and Medicaid, pursuant to 89 Ill. Adm. Code 140-1-1 through 140-12-140.14 and 140.16.

(Source: Amended at Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) The Heading of the Part: Confidentiality of Personal Information of Persons Served by the Department

2) Code Citation: 89 Ill. Adm. Code 431

3) Section Numbers: Adopted Action

431.2 Amendment
431.3 Amendment
431.5 Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 23, par. 2061.1

5) Effective Date of Amendments: December 31, 1990

6) Does this rulemaking contain an automatic repeal date: Yes X No
If so, please specify date:

7) Do the amendments contain incorporations by reference? No.
If "yes," was a copy of the approval form issued by JCARE attached to this rulemaking?

8) Date Filed in Agency's Principal Office: December 30, 1990

9) Notice(s) of Proposal Published in Illinois Register:

March 23, 1990, 14 Ill. Reg. 4303
(issue date)

10) Has JCARE issued a Statement of Objections to this (these) rule(s)? No.

11) Difference(s) between proposal and final version:

In Section 431.2, a definition of "Minor" was added which reads "Minor means any individual who has not reached his 18th birthday."

A definition of "State Central Register" was added which reads "State Central Register means a specialized Department unit which receives and transmits reports of alleged child abuse and neglect."

In the definition of "subject of a report," the words "State Central Register" were capitalized.

In the definition of "work product," the "p" in "this Part" was capitalized.

In Section 431.3(c) in the second line, "held in" was changed to "reported to."

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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In Section 431.5(b), (8), (C) the words "Department representative" was changed to "the individual presenting the Department's case at the hearing."

In Section 431.3(b) in the last line, "in these rules" was changed to "in this Section."

In Section 431.3(c), (d), (e), the words "of this rule" and "of these rules" were changed to "of this Subsection."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will these amendments replace an emergency amendment currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of these Amendments: The purpose of these amendments is to implement legislation which allows the Department to increase the retention periods for indicated reports involving death, serious physical injury or sexual abuse. Legislation also added the State Board of Education and Department staff conducting background investigations to the list of those who are allowed access to records of indicated reports. In response to objections raised by the Joint Committee criteria were added whereby hearing officers may disclose the names of reporters during administrative hearings.

16) Information and questions regarding these amendments shall be directed to:

Name: Jacqueline Nottingham, Chief
Address: Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe
Springfield, Illinois 62701-1498
Telephone: 217/785-2592

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER f: GENERAL ADMINISTRATION

PART 431

CONFIDENTIALITY OF PERSONAL INFORMATION
OF PERSONS SERVED BY THE DEPARTMENT

Section	Purpose
431.1	Definitions
431.2	Maintenance of Records
431.3	Consent Prior to Disclosure of Personal Information
431.4	Access to Records
431.5	Disclosure Without Consent
431.6	Disclosure of Information of a Mental Health Nature
431.7	Denial of Access to Information
431.8	Removal of Records Prohibited
431.9	Release of Personal Information for Research Purposes
431.10	Disclosure of Information Regarding AIDS
431.11	Applicability of This Part
431.12	

AUTHORITY: Implementing Section 35.1 of "AN ACT creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named" (Ill. Rev. Stat. 1989, ch. 23, par. 5035.1); the Mental Health and Developmental Disabilities Confidentiality Act (Ill. Rev. Stat. 1989, ch. 91 1/2, pars. 801 et seq.); Section 11 and 11.1 of the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1989, ch. 23, pars. 2061 and 2061.1); the AIDS Confidentiality Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 7301 et seq.); and "AN ACT for the protection and advocacy of mentally ill persons" (Ill. Rev. Stat. 1989, ch. 91 1/2, pars. 1351 et seq.), and authorized by Section 4 of "AN ACT creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named," (Ill. Rev. Stat. 1989, ch. 23, par. 5004); and Section 11.1 of the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1989, ch. 23, par. 2061.1).

SOURCE: Adopted and codified at 5 Ill. Reg. 7815, effective August 3, 1981; amended at 6 Ill. Reg. 15517, effective January 1, 1983; amended at 10 Ill. Reg. 21647, effective December 31, 1986; amended at 11 Ill. Reg. 12613, effective August 1, 1987; amended at 13 Ill. Reg. 2407, effective March 1, 1989; amended at 15 Ill. Reg. 24, effective December 31, 1990.

Section 431.2 Definitions

"disclose" and "permit access to" means to release, transfer, permit examination of, or otherwise communicate information orally, in writing, by electronic means or in any other manner.

"Indicated Report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that some credible evidence of the alleged abuse or neglect exists.

"Minor" means any individual who has not reached his 18th birthday.

"Person served by the Department" means any person who receives services or applies for services from the Department through its various offices. The term includes persons who involuntarily are investigated by the Department concerning allegations of child abuse or neglect and who may receive Department services during the course of, or subsequent to, such an investigation.

"Personal information" means any information, excluding work products, which is a part of the permanent record and which describes, locates or indexes anything about an individual including, but not limited to, his education, financial transactions, medical history, criminal or employment records, registration or membership in an organization or activity, or admission to an institution.

"Serious physical injury", for purposes of this Part, includes but is not limited to brain damage, skull fractures, subdural hematomas, internal injuries, wounds, third degree burns, multiple or spiral fractures, poisoning, physical injury when evidence indicates the child has been tortured.

"State Central Register" means the specialized Department unit which receives and transmits reports of alleged child abuse and neglect.

"Subject of a report" means any child reported to the child abuse/neglect State Central Register and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

"Work product", for the purposes of this Part, means a worker's notes which are not part of the permanent record, concerning interviewing technique, strategies for working with a person served by the Department and personal observations, which are kept for the worker's own personal use and are not disclosed to any other person except the worker's supervisor or attorney.

(Source: Amended at 15 Ill. Reg. 24, effective December 31, 1990)

Section 431.3 Maintenance of Records

NOTICE OF ADOPTED AMENDMENT(S)

a) The Department, through its institutions, facilities and various offices shall maintain a record on all persons receiving services from the Department and on all persons for whom a child abuse or neglect report has been indicated or for whom a decision about the report has not yet been made. Upon request from the subjects of the report, the Department may keep records of unfounded reports of child abuse or neglect to prevent future harassment of the subjects. Additionally, in accordance with Section 7.17 of The Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1981 1982, ch. 23, par. 2057.17), the Department may maintain case records containing identifying information related to child abuse or neglect reports.

b) All identifying information about any indicated report held in the SGR State Central Register or the local index shall be expunged no later than 5 years after the report is closed in this Section. However, if a subsequent report involving any of the same subjects, or the siblings or offspring of the child subjects was indicated, identifying information about the subjects of all indicated reports shall be maintained in the SGR State Central Register and the local index for five years after the last report was indicated in accordance with the retention period specified in this Section.

c) All identifying information about any indicated report involving the death of a child reported to the State Central Register or local index as of the effective date of this subsection shall be retained for fifty years.

d) All identifying information about any indicated report involving the sexual penetration of a child reported to the State Central Register as of the effective date of this subsection shall be retained for fifty years.

e) All identifying information about any indicated report involving the serious physical injury, sexual molestation or sexual exploitation of a child reported to the State Central Register as of the effective date of this subsection shall be retained for twenty years.

c)ff) All such records shall be of a confidential nature and shall not be made available to the general public.

(Source: Amended at 15 Ill. Reg. 24, effective December 31, 1990)

Section 431.5 Access to Records

a) Access to Records for Persons Served by the Department
1) Except as provided in these rules Section, each person served by the Department who has reached 12 years of age shall have full access to all records which contain his personal information, unless access is prohibited by this Part. A parent whose parental rights have not been terminated or a guardian of a minor shall have full access to the personal information contained in the records of that minor, unless access is prohibited by this Part.

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NOTICE OF ADOPTED AMENDMENT(S)

- 2) The Department shall provide access to records within 10 working days of the receipt of the request, if practicable. In instances where the material cannot be easily identified and assembled, the Department will provide the records within a reasonable time. Records shall be viewed in the Department field office, a purchase of service provider office or another location which will not place an undue hardship on the individual. The Department may require that a representative of the Department be present when the records are viewed to interpret the contents of the records. An individual may convey the right to view his records by written statement to an attorney or other person.
- 3) Every incidence of release of information to persons outside of the Department shall be recorded in the individual's case file, showing dates and other circumstances related to the release.

- b) Access to Records of Child Abuse and Neglect Reports
The following persons are allowed access to records of child abuse and neglect reports without the consent of the subjects of the report. Other persons who wish access to these records must obtain written consent from the subjects of the report as provided in Section 431.7.
- 1) Department staff in the furtherance of their responsibilities under the Abused and Neglected Child Reporting Act or for the purpose of completing background investigations on persons or agencies licensed by the Department or with whom the Department contracts for the provision of child welfare services;

- 2) Department and purchase of service provider staff assessing children and families in which abuse or neglect has occurred or providing services to these children and families;
- 3) Department staff verifying whether a child care facility subject to Department licensing is owned or operated by the perpetrators of child abuse or neglect or whether employees or volunteers who work directly with children have been the perpetrators of child abuse or neglect;
- 4) Law enforcement officers investigating a report of suspected child abuse or neglect, known or suspected involvement with child pornography, known or suspected criminal sexual assault, known or suspected criminal sexual abuse, or any other sexual offense when a child is alleged to be involved;
- 5) The Department of State Police when administering the provisions of the Intergovernmental Missing Child Recovery Act of 1984 (Ill. Rev. Stat. 1989, ch. 23, par. 2251 et seq.);
- 6) States' Attorneys who need access to child abuse or neglect information in the course of their assigned duties;
- 7) Physicians examining a child where abuse or neglect is suspected;
- 8) Subjects, including minor subjects, of reports of suspected abuse or neglect. However, the identity or location of persons reporting or cooperating in an investigation shall not be provided to any subject, unless a subject appeals an indicated finding and a hearing officer determines that the lack of such information would prejudice the appellant's case or violate due

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process of law principles. In addition, the Department may seek a court order prohibiting the release to the subjects of a report of any information deemed likely to be harmful to them. The circumstances under which the hearing officer will be allowed to order the disclosure to the appellant of the names of reporters or persons cooperating in the investigation, include but are not limited to, the following:

- A) Testimony must have been offered by the appellant that the reporter or collateral witnesses demonstrated bias, motive, reason to fabricate or that the reporter or collateral witnesses have other information relevant to the testimony of the reporter or collateral witness.
- B) The appellant must provide the hearing officer in private with the names of the person(s) believed to be the reporter or collateral witness(s);
- C) The individual presenting the Department's case at the hearing would then disclose the identity of the person(s) to the hearing officer in an in-camera setting;
- D) If the reporter or collateral witness(s) is the same as the person(s) named by the appellant, then the identity will be disclosed to the appellant. Otherwise, no disclosure will be made.

- 9) The guardian of the person or guardian ad litem of a child who is the subject of a report;
- 10) A court, upon its finding that access is necessary to determine an issue before the court. Unless the court determines that disclosure of the information in open court is necessary, such access is limited to an inspection by the judge in his chambers or in a court room free of spectators.
- 11) A grand jury which determines that access is necessary to conduct its official business;
- 12) Persons who have been authorized by the Director, in writing, to review the records for audit or research purposes or to review such records in the regular course of the Department's business. Such access shall be time limited or limited to specific staff functions;
- 13) Persons authorized to take temporary protective custody only if the information is needed to determine whether to take the child into temporary protective custody;
- 14) A person who has legal responsibility or authorization to care for, treat, or supervise a child or a parent, guardian, or other person responsible for the welfare of a child who is the subject of a report;
- 15) Law enforcement officers, coroners or medical examiners, physicians, courts, school superintendents and child welfare agencies in other states who are responsible for child abuse or neglect investigations or background investigations. Such information shall be requested only for the purpose of aiding the investigation, assessment or service provision or background

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT(S)

investigation in the requesting state;
 16) The Illinois Department of Professional Regulation, when determining whether a mandated reporter who failed to report child abuse or neglect should be subject to license suspension or revocation; or when determining whether to refuse to issue, suspend or revoke the license of the following classes of persons due to the person having been named a perpetrator in an indicated report of child abuse or neglect:

- A) Physicians
- B) Physicians' Assistants
- C) Dentists
- D) Registered and practical nurses
- E) Optometrists
- F) Physical Therapists
- G) Podiatrists
- H) Psychologists
- I) Social Workers
- J) Athletic Trainers

17) School superintendents and the State Board of Education when determining whether a teacher's certificate shall be suspended because the teacher has been named as a perpetrator in an indicated report of child abuse or neglect.

18) A coroner or medical examiner who has reason to believe that a child has died as the result of abuse or neglect;

19) The Director of a State-operated facility when an employee of that facility has been named as a perpetrator of an indicated report; or

20) Members of a multidisciplinary team in the furtherance of its responsibilities under this Act.

21) The operator of a licensed child care facility or a facility licensed by the Department of Alcoholism and Substance Abuse in which children reside when a current or prospective employee of that facility has been named as a perpetrator in an indicated child abuse or neglect report.

(Source: Amended at 15 Ill. Reg. 24, effective December 31, 1990)

DEPARTMENT OF CONSERVATION

NOTICE OF ADOPTED AMENDMENTS

1) HEADING OF THE PART: Falconry and the Captive Propagation of Raptors

2) CODE CITATION: 17 Ill. Adm. Code 1590

3) SECTION NUMBERS: ADOPTED ACTION:

1590.50
 1590.80
 1590.90

Amendments
 Amendments
 Amendments

4) STATUTORY AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.1, 2.2, 2.4, 2.6, 2.7, 2.13, 2.18, 2.20, 2.27, 2.28, 2.29, 2.30, 3.5 and 3.36 of the Wildlife Code (Ill. Rev. Stat. 1989, ch. 61, pars. 1.3, 1.4, 2.1, 2.2, 2.4, 2.6, 2.7, 2.13, 2.18, 2.20, 2.27, 2.28, 2.29, 2.30, 3.5 and 3.36) and Section 335 of the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1989, ch. 8, par. 335).

5) EFFECTIVE DATE OF AMENDMENTS: December 24, 1990

6) DOES THIS RULEMAKING CONTAIN AN AUTOMATIC REPEAL DATE? No

7) DO THESE AMENDMENTS CONTAIN INCORPORATIONS BY REFERENCE? No

8) DATE FILED IN AGENCY'S PRINCIPAL OFFICE: December 21, 1990

9) NOTICE OF PROPOSAL PUBLISHED IN ILLINOIS REGISTER: October 5, 1990, 14 Ill. Reg. 16174

10) HAS JCAR ISSUED A STATEMENT OF OBJECTIONS TO THESE RULES: No

11) DIFFERENCES BETWEEN PROPOSAL AND FINAL VERSION:

In Section 1590.50(a)(1), "the U.S." was added prior to "Fish and Wildlife Service."

12) HAVE ALL THE CHANGES AGREED UPON BY THE AGENCY AND JCAR BEEN MADE AS INDICATED IN THE AGREEMENT LETTER ISSUED BY JCAR? Yes

13) WILL THESE AMENDMENTS REPLACE AN EMERGENCY RULE (AMENDMENT REPEALER) CURRENTLY IN EFFECT? No

14) ARE THERE ANY AMENDMENTS PENDING ON THIS PART? No

15) SUMMARY AND PURPOSE OF AMENDMENTS: Senate Bill 2119 made changes to statutes which are reflected by amendments to this part. This part was also amended to increase conformity with Federal Regulations pertaining to falconry.

DEPARTMENT OF CONSERVATION

NOTICE OF ADOPTED AMENDMENTS

16) INFORMATION AND QUESTIONS REGARDING THESE ADOPTED AMENDMENTS SHALL BE DIRECTED TO:

Jack Price
Department of Conservation
524 S. Second Street, Room 485
Springfield, IL 62701-1787

THE FULL TEXT OF THE ADOPTED AMENDMENTS BEGINS ON THE NEXT PAGE.

DEPARTMENT OF CONSERVATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF CONSERVATION
SUBCHAPTER d: FORESTRY

PART 1590

FALCONRY AND THE CAPTIVE PROPAGATION OF RAPTORS

Section

1590.10
1590.20
1590.30
1590.40
1590.50
1590.60
1590.70
1590.80
1590.90
1590.100
1590.110
1590.120
1590.130

Establishment of Rules and Regulations
Definitions for the Purpose of these Regulations
Provisions of Rules and Regulations (Repealed)
Violation of Rules (Repealed)
Permit and License Requirements
Examination and Application Procedures
Inspection of Facilities and Equipment
Falconry Permits - Class and Types
Capturing of Raptors - Regulations
Transfer, Temporary Care and Reporting Requirements
Hunting Seasons for Falconers
Special Provisions
Violation of Rules
Migratory Bird Acquisition and Disposition Report

APPENDIX A

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.1, 2.2, 2.4, 2.6, 2.7, 2.13, 2.18, 2.20, 2.27, 2.28, 2.29, 2.30, 3.5 and 3.36 of the Wildlife Code (Ill. Rev. Stat. 1989, ch. 61, pars. 1.3, 1.4, 2.1, 2.2, 2.4, 2.6, 2.7, 2.13, 2.18, 2.20, 2.27, 2.28, 2.29, 2.30, 3.5 and 3.36) and Section 335 of the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1989, ch. 8, par. 335).

SOURCE: Amendment filed November 17, 1977; effective January 1, 1978; emergency amendment at 5 Ill. Reg. 9161, effective September 1, 1981, for a maximum of 150 days; amended at 6 Ill. Reg. 6207, effective May 14, 1982; amended at 10 Ill. Reg. 16627, effective September 24, 1986; amended at 11 Ill. Reg. 11350, effective June 9, 1987; amended at 12 Ill. Reg. 12807, effective July 26, 1988; amended at 13 Ill. Reg. 10567, effective June 16, 1989; amended at 14 Ill. Reg. 6088, effective April 17, 1990; amended at 15 Ill. Reg. ³²_____, effective December 24, 1990.

Section 1590.50 Permit and License Requirements

- a) It shall be unlawful for any person to take, possess, or transport any raptor for falconry purposes or practice falconry in Illinois unless a valid falconry permit has been issued pursuant to these regulations or issued by another State in accordance with federal regulations (50

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CFR 21, effective September 14, 1989) (no incorporation in this Part includes later amendments or editions).

- 1) Residents - Illinois residents may hold raptors in captivity only under a falconry permit issued by the Department and the U.S. Fish and Wildlife Service.

A) The initial fee for an Illinois Falconry Permit shall be ~~thirty (\$30) dollars and must be renewed annually for a fee of thirty (\$30) dollars~~ seventy-five (\$75) dollars for three years and must be renewed every three years for a fee of seventy-five (\$75) dollars if raptors are to be possessed or held beyond the permit expiration date.

B) All applicants must be at least ~~18~~ 14 years of age.

- 2) Non-Residents - Federally licensed non-resident falconers may transport and possess properly marked raptors in Illinois for falconry purposes on a temporary basis not to exceed 30 days. Written authorization from the Department is required in advance if any such raptor is to be brought into Illinois in excess of 30 days. While in Illinois, all non-residents shall comply with all applicable provisions of this Part and obtain the appropriate hunting licenses, stamps, or permits as may be required under Illinois law.

b) The falconry permit or a copy must be in the possession of the holder when engaged in falconry activity.

c) No person shall transfer the falconry permit or unused markers or allow the use thereof by any other persons, nor shall any person while engaged in falconry, use or carry any permit or marker issued to another.

d) Nothing in this Section shall prohibit a falconry permittee in possession of a letter of authorization from using the raptor of another permittee for falconry purposes on a temporary basis not to exceed 30 days.

(Source: Amended at 15 Ill. Reg. 32, effective December 24, 1990)

Section 1590.80 Falconry Permits - Class and Types

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a) Apprentice Class. ~~Regardless of age, a new Illinois applicant~~ an apprentice class permittee shall be at least 14 years of age. New applicants must serve an apprenticeship under a general or master class permittee for at least two consecutive years and may possess only one raptor - either a red-tailed hawk, kestrel or red-shouldered hawk obtained from out of state or from another falconer. An apprentice is limited to one replacement raptor per year. Sponsors may not have more than three apprentices. An applicant may be exempted from this requirement if the applicant has proof of at least two years of licensed experience in the care of raptors and hunting and trapping techniques and approval is granted by the Department.

b) General Class. After two years of licensed experience and upon written approval by the Department, ~~the apprentice class permittees who are at least 18 years of age shall become a general class permittee.~~ A general class permittee shall possess no more than two raptors, and may not obtain more than one replacement raptor per year. A general class permittee shall not take, transport, or possess any species or subspecies listed as endangered or threatened by the U.S. Fish and Wildlife Service (50 CFR 17, effective September 14, 1989) (no incorporation in this Part includes later amendments or editions) and the Illinois Endangered Species Protection Board (17 Ill. Adm. Code 1010).

c) Master Class. After five years experience at the general class level, a permittee shall become a master class permittee. A master class permittee shall possess no more than three raptors, and may not obtain more than two replacement raptors per year. A master class licensee shall not take, transport, or possess any species or subspecies listed as endangered by the U.S. Fish and Wildlife Service or the Illinois Endangered Species Protection Board. A master class licensee shall not take, transport, or possess as part of the three bird limit more than one raptor listed as threatened by the U.S. Fish and Wildlife Service and then only in accordance with prior written approval by the Department and the U.S. Fish and Wildlife Service (50 CFR 17, effective September 14, 1989). (No incorporation in this Part includes later amendments or additions). Only master class licenses may possess golden eagles under guidelines set forth by the U.S. Fish and Wildlife

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Service (50 CFR 22.24, effective December 29, 1983). (No incorporation in this Part includes later amendments or additions).

1) Bald eagles, golden-eagles, ospreys, all owls except the great-horned owl, species or subspecies prohibited by Section 2.4 of the Wildlife Code (Ill. Rev. Stat. 1987-1989, ch. 61, par. 2.4) and any species or subspecies considered endangered (or restricted due to a similarly-appearing status) by the U.S. Fish and Wildlife Service may not be used or possessed for falconry in Illinois. Use of threatened species shall be in compliance with federal regulations (50 CFR 17, effective September 14, 1989).

2) Any raptor listed as endangered or threatened by the Illinois Endangered Species Protection Board (17 Ill. Adm. Code 1010) and not by the U.S. Fish and Wildlife Service (50 CFR 17, effective September 14, 1989) may not be captured in Illinois for falconry purposes. This prohibition shall not prevent a licensee from legally obtaining a bird in another state or country and bringing that bird into Illinois provided the applicable permits are obtained.

d) Captive Propagation. Raptors held for captive propagation purposes may be held only under permits from both the U.S. Fish and Wildlife Service and the Department. ~~the fee for a captive propagation permit is thirty (\$30) dollars per year and must be renewed annually. The initial fee for a captive propagation permit is seventy-five (\$75) dollars for three years and must be renewed every three years if raptors are to be possessed or held beyond the permit expiration date.~~ A holder of an Illinois captive propagation permit must also be a holder of an Illinois falconry permit. An Illinois captive propagation permit holder may transfer birds held under the authority of the propagation permit to a falconry permittee provided the permittee meets Federal and Department requirements for receiving and holding such birds pursuant to federal regulations (50 CFR 21.27, effective September 14, 1989). Nothing in this Part shall prevent a permittee from holding individual birds under the authority of both the falconry permit and the captive propagation permit at the same time within the numerical limits for the falconry permit.

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1) Raptors shall not be cross-bred (hybridization) unless specific authorization is granted by the Department.

2) Raptors may be loaned for breeding purposes in accordance with Section 1590.100 of this Part.

3) Markers shall be placed on all captive-produced raptors as directed by the Department or the U.S. Fish and Wildlife Service (50 CFR 21, effective September 14, 1989).

e) The Department shall issue special use permits in accordance with 17 Ill. Adm. Code 520.

(Source: Amended at 15 Ill. Reg. 32, effective December 24, 1990)

Section 1590.90 Capturing of Raptors - Regulations

a) A permittee in possession of a valid "Capture Permit" may capture raptors of a non-prohibited species or subspecies. The capture season for immature raptors capable of flight (passage) and adult (haggard) kestrels and great horned owls shall be between September 1 and January 31; the capture or taking of any young bird in Illinois not yet capable of flight (eyas) is limited to general and master class permittees during the first, second, third and fourth Saturdays in March and from May 20 to June 11. When eyasses are captured, at least one eyas shall be left in the nest. No permittee may capture any raptor without an appropriate permit from the Department to do so. The Department shall determine eligibility by compliance with the provisions of this Part. The fee for a raptor capture permit for a resident of the State of Illinois is thirty (\$30) dollars per year. The fee for a non-resident raptor capture permit is ~~one hundred fifty (\$150)~~ fifty (\$50) dollars per year. The Department will authorize up to 250 "Capture Permits" annually. Requests for capture permits in excess of 250 shall be considered first in following years. All raptors will be captured in a humane manner.

1) The marker must be attached to the raptor immediately upon acquisition, and written notification provided to the Department within five days of capture as determined by the postmark.

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- 2) Markers shall not be altered, counterfeited, or defaced.
- 3) Permit holders capturing any previously marked raptor(s) shall immediately report such trapping to the Department or the previous owner.
- b) Species or sub-species not prohibited, may be imported into Illinois after obtaining a permit from the Department; this permit will be issued only after receipt by the Department of a letter of authorization or permit from the authorized agency in charge of the location from where the raptor is to be obtained.
- c) Raptors taken under a depredation (or special purpose) permit may be used for falconry by general or master falconers in compliance with federal regulations (50 CFR 21, effective September 14, 1989). (No incorporation in this Part includes later amendments or additions).

(Source: Amended at 15 Ill. Reg. 32, effective December 24, 1990)

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- 1) The Heading of the Part: Special Education
- 2) Code Citation: 23 Ill. Adm. Code 226
- 3) Section Number:

226.40	Adopted Action:
226.520	Amendment
226.525	Amendment
226.552	Amendment
226.555	Amendment
226.560	Amendment
226.605	Amendment
226.612	Repeal
226.615	Amendment
226.620	Repeal
226.680	Amendment
226.684	Amendment
226.720	Amendment
226.730	Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 122, par. 14-1.01 et seq.
- 5) Effective Date of Amendments: December 24, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this Amendment contain incorporations by reference?
The rules do not contain an incorporation by reference under Section 6.02(b) of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: December 17, 1990
- 9) Notice of Proposal Published in Illinois Register:
July 13, 1990, 14 Ill. Reg. 11068
- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)? No

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11) Difference(s) between proposal and final version:

Section 226.615 was amended by changing its title to "Request for Hearing," and by inserting after the existing first sentence a slightly revised version of language from the beginning of the repealed Section 226.612. That is, Section 226.615 will begin as follows:

Section 226.615 Local-School-District-Request-or-Response
Whereeto Request for Hearing

Pursuant to Section 226.605 of this Subpart, either the district or the parents of any child resident within the district may request a Level I hearing. A parental request for a hearing shall be made, in writing, to the superintendent of the local school district in which the child is a resident.

The repealed Section 226.40 has been partially restored and also amended, to read as follows:

Section 226.40 Rights of Children Requiring Special Education -
Exclusion7-Suspension

The local school district shall be responsible for ensuring that those children who require special education services enjoy rights and privileges equal to those of all other children.

- a) No exceptional child between the ages of three and twenty-one may be permanently excluded from the public schools, either by direct action by the board of education, by indication of the district's inability to provide an educational program, or by informal agreement between parents and the school district to allow the child to remain without an educational program.
- b) A child who has been determined eligible for a special education instructional or resource program or related service shall not be expelled for behavior or a condition which is, or results from, an exceptional characteristic as defined in The School Code (Ill. Rev. Stat. 1989, ch. 122, pars. 14-1.02 and 14-1.03a) and this Part.

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The new subsection 226.562(b) proposed has been deleted, so that Section 226.562 returns to its original form.

A new subsection 226.605(b)(10) has been inserted (with following subsections renumbered accordingly). The new subsection states:

10) Failure of the local school district to ensure the provisions of Section 226.40.

The proposed provisions of Section 226.520 regarding parental notification have been modified slightly for clarity, as follows:

Section 226.520 Notification to Parents of Exceptional Children
Parents or guardians of an exceptional child must be notified provided notice in writing by the local district, said notice to be sent at least ten (10) calendar days prior to the event, when the local school district proposes to initiate or change the identification, case study evaluation, reevaluation, or educational placement of the child; or refuses to initiate or change ...

Section 226.525 has been completely rewritten, as follows:

Section 226.525 Parental Consent for Case-Study-or-Initial Placement

Parental-consent-shall-be-obtained-before-

- a) conducting-any-case-study-evaluation-or-reevaluation-of-the-child
- b) initial-placement-of-an-exceptional-child-in-a-program-providing-special-education-and-related-services.

a) Written parental consent shall be obtained before conducting an initial case study evaluation of a child.

b) Written parental consent shall be obtained before conducting any reevaluation other than the required triennial reevaluation. Written parental consent is also required for the triennial reevaluation when it includes any components which were not included in the child's most recent case study evaluation. The district must request a due process hearing when ten calendar days have elapsed since a request for consent

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to reevaluate was sent and the parent has either failed or refused to provide written consent.

- c) No written parental consent shall be obtained for a required triennial reevaluation consisting solely of components in the child's most recent case study evaluation. Written notice, sent to the parents at least ten days prior to conducting the reevaluation, shall be provided.

- d) Written parental consent shall be obtained before implementing the initial placement of an exceptional child in a program providing special education and related services.

Parts of Section 226.560 as proposed have been amended, as follows:

If the initial a multidisciplinary conference was held...(first line)

- b) The following participants must be included in the IEP meeting:

- 1) A representative of the local district, other than the child's teacher, who is authorized to commit services and who is qualified to provide or supervise the provision of special education and authorized-to-commit-services.

- d) Recommendations for special education placement shall be based on the following, consistent with Section 226.550(b)(4):

Section 226.552(f) has been reworded to refer to "this Part" instead of "these rules."

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?

The Joint Committee did not request that the agency make any changes.

- 13) Will this amendment replace an emergency amendment currently in effect? No

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- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendment:

The amendments address seven different areas of concern. Most of these involve changes in more than one section of the rules, as follows.

Denial of Due Process: The rules which were in effect prior to our filing of emergency amendments allowed for denial of a request for a hearing based on considerations other than nonresidency. This is contrary to federal rule; the changes proposed will limit the reasons for denial to nonresidency. Sections affected: 226.612 (Repealed); 226.615; and 226.620 (Repealed).

Timeline for Appeal of a Level I Hearing Order: Our rules have allowed 15 days for the initiation of an appeal; the Office of Special Education Programs (OSEP) finds 30 days more appropriate. Section affected: 226.680.

Emergency Placement: Our rules needed to be amended to reflect the Supreme Court's decision in the case of Honig v. Doe, which prohibits a school district from unilaterally excluding a handicapped child from school in excess of ten days for disruptive behavior arising from the child's handicap. Sections affected: 226.40, 226.605, and 226.684.

Consent for Reevaluation: Our rules have required written permission for both initial evaluations and reevaluations. If parents refuse to give their consent for reevaluation, the district has had the option of initiating an appeal. OSEP staff members have indicated that we can require permission only for initial evaluations without abridging the child's right to continued services. If we continue to require written consent for reevaluations, we must also require districts to initiate appeals in all cases where such consent is withheld. Sections affected: 226.520 and 226.525.

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Exceptional Characteristics - Educationally Handicapped and Behavior Disorders: Illinois is the only state which has been counting students identified as educationally handicapped under the "behavior disordered" category. Staff at the federal level also found our definition of behavior disorder insufficient. The amendment will eliminate the use of the term "educationally handicapped," as required and will make the definition of behavior disorder similar to that used at the federal level. Section affected: 226.552.

Placement after Development of IEP: Our rules have required the placement decision to be made earlier than is educationally or legally sound (at the multidisciplinary conference instead of at the end of the IEP meeting). The change requires placement to be determined after the IEP is written, once all other educational decisions have been made, and incorporated therein. Sections affected: 226.555 and 226.560.

Surrogate Parent: The rules are being changed to allow for only one surrogate parent per child. They are also being amended to reflect the federal requirement that a surrogate parent be provided for those children whose parent or guardian cannot be identified or located, and for children who are wards of the state. Sections affected: 226.720 and 226.730.

16) Information and questions regarding this adopted Amendment shall be directed to:

Name: Vaughn Morrison
Address: Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
Telephone: (217) 782-6601

The full text of the Adopted Amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 226

SPECIAL EDUCATION

SUBPART A: DEFINITION OF TERMS

Section
226.5 Terms Defined

SUBPART B: RESPONSIBILITY FOR SPECIAL EDUCATION

Section
226.10 Cost to be Borne by Local School District
226.20 Comprehensive Program of Special Education
226.30 Cooperative Special Education Programs
226.40 Rights of Children Requiring Special Education-
Exclusion7-Suspension

SUBPART C: THE ESTABLISHMENT AND ADMINISTRATION OF SPECIAL EDUCATION

Section
226.110 Educational Needs to be Met
226.115 Continuum of Program Options
226.120 Ages for Which Programs are to be Available
226.125 Least Restrictive Environment
226.130 Facilities for Classes for Handicapped
226.135 Written Policies for Handicapped Students' Records
226.140 Director of Special Education
226.145 Supervision
226.150 Role of Local District Administrator
226.155 Responsibilities to Be In Writing
226.160 Approval of Programs and Services Not in Compliance
With this Part

SUBPART D: SPECIAL EDUCATION INSTRUCTIONAL PROGRAMS AND RESOURCE PROGRAMS

Section
226.210 Design of Special Education Instructional Programs
226.215 Curriculum for Instructional Programs
226.220 Factors to Consider in Developing Instructional
Programs
226.225 Instructional Class Size

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226.230 Integration of Student Into Standard Program
226.240 Special Education Resource Programs

SUBPART E: SPECIAL EDUCATION RELATED SERVICES

Section
226.250 Related Services to be Provided by School District
226.260 Other Related Services
226.270 Student Based Objectives
226.280 Specific Objectives
226.290 Time Spent on Behalf of Students

SUBPART F: PREVOCATIONAL PROGRAM

Section
226.310 Provision of Prevocational Programs
226.315 Determination of Need for Prevocational Program
226.320 Vocational Plan
226.325 Community Work Experiences
226.330 Time Spent in Community Work Experiences
226.335 Supervision of Community Work Experiences
226.340 Coordination With Other Vocational Programs

SUBPART G: HOME OR HOSPITAL PROGRAM

Section
226.350 Content of Home and Hospital Programs
226.355 To Whom Provided
226.360 Commencement
226.365 Amount of Instruction and Related Service
226.370 Scheduling
226.375 Summer Instructional Service
226.380 Conferences to Facilitate Student's Return
226.385 Improper Use of Home and Hospital Program

SUBPART H: STATE OPERATED OR PRIVATE PROGRAMS

Section
226.410 Referral to State or Private Facilities
226.415 Availability of Community Resources
226.420 Residential Placement
226.425 District's Responsibility to Locate Alternate Programs
226.430 Local District Responsible for Payment When Private Facility is Utilized
226.435 Annual Approval of Private Placements
226.440 Agreement Between Local School District and Private Facility
226.442 Supportive Data to be Maintained
226.445 Transportation and Other Services

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226.450 Monitoring of Student Progress by School District
226.460 Annual Transportation (Repealed)

SUBPART I: IDENTIFICATION, EVALUATION AND PLACEMENT OF EXCEPTIONAL CHILDREN

Section
226.505 Communication of Special Education Programs to Public
226.510 Child Find Activities
226.515 Case Study Evaluation Process
226.520 Notification to Parents of Exceptional Children
226.525 Parental Consent for Case-Study-or-Initial Placement

226.530 Parental Objection
226.532 Determination of Communication Mode(s) and Cultural Background

226.535 Case Study Evaluation Components
226.538 Incomplete Case Study Evaluation
226.540 Case Study to be Nondiscriminatory
226.542 Use of Outside Study
226.544 Independent Educational Evaluation
226.545 Home/Hospital Services Eligibility
226.548 Speech and Language Case Study Conclusions
226.550 Formulation of Program and Service Options
226.552 Characteristics Determining Eligibility for Special Education

226.555 Determination of Recommendations for Special Education Placement and Related Services Eligibility
226.558 Results and Recommendations to be in Writing
226.560 Placement-Recommendation-and Development of IEP and Placement Decision

226.562 IEP Content and Parental Access
226.564 Authority of School Board to Place Students
226.566 Completion to be in 60 School Days
226.568 Notice to Parents Before Placement
226.570 Parents' Response to Notice of Proposed Placement
226.572 Parents' Objection to Proposed Placement (Repealed)
226.575 Timeline for Placement
226.578 Annual Review of Child Status
226.580 Notice to Parents Regarding Evaluation
226.585 Written Notice to Parents
226.590 Written Notice to Parents Prior to Change in Placement
226.595 Termination of Special Education Services

SUBPART J: LEVEL I AND LEVEL II DUE PROCESS HEARINGS

Section
226.605 Request for Level I Hearing
226.610 Information to Parents Concerning Right to Hearing

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226.612 Request for Hearing To Be Made to Superintendent (Repealed)

226.615 ~~Local-School-District-Request-or-Response-Where-to~~
Request for Hearing

226.620 Denial of Hearing Request (Repealed)

226.622 Qualifications of Level I Hearing Officers

226.625 Selection of Level I Hearing Officer

226.630 Purpose of Hearing (Repealed)

226.631 Removal of Registered Hearing Officers (Repealed)

226.632 Scheduling the Hearing

226.635 Hearings Open to Public and to Child Who is Subject (Repealed)

226.636 Rights of the Parties Prior to the Hearing

226.640 Rights of the Parties During the Hearing

226.650 Hearing Concerning Any Other Controversy (Repealed)

226.655 Local School District's Responsibility (Repealed)

226.660 Cross-Examination (Repealed)

226.665 Rules of Evidence Not Applicable (Repealed)

226.670 Record of Proceedings

226.675 Decision of Hearing Officer

226.680 Filing of an Appeal

226.682 Filing of Administrative Record

226.684 Placement of the Child Pending Completion of a Level II Review

226.685 State Level Review (Repealed)

226.688 Oral Arguments and Extensions of Time

226.690 Timeliness and Finality of Reviewing Officer's Decision

226.692 Monitoring and Enforcement of Decisions; Right of Civil Action; Notice of Funding Ineligibility

226.695 Reporting of Decisions

226.698 Enforcement of State Superintendent's Decision (Repealed)

SUBPART K: SURROGATE PARENTS

Section

226.710 Surrogate Parents

226.720 Contacting Parents of Child

226.730 Appointment of Surrogate Parent

226.740 Notice to School District Concerning Surrogate Parent

226.750 Expenses for Surrogate Parent

226.760 Notification that Surrogate Parent is Not Needed

226.770 Replacement by Natural Parent

226.780 Immunity of Surrogate Parent

SUBPART L: SPECIAL EDUCATION PERSONNEL

Section

226.810 Employment of Sufficient and Trained Personnel

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226.820 Qualifications of Professional Instructional Personnel

226.830 Qualifications of Other Professional Personnel

226.840 Qualifications of Directors and Assistant Directors

226.850 Qualifications of Supervisory Personnel

226.860 Qualifications of Chief Administrator

226.870 Necessary Noncertified Personnel

226.880 Function of Special Education Personnel

226.890 Personnel Development Program

SUBPART M: SPECIAL TRANSPORTATION

Section

226.910 Eligibility for Transportation

226.920 Vehicles Used

226.930 Training of Personnel

226.935 Provision for Transportation

226.938 Change in Mode of Transportation

226.940 Scheduling of Transportation

226.950 Transportation and Instructional Schedule

226.960 Transportation to a Residential School

SUBPART N: EVALUATION OF SPECIAL EDUCATION

Section

226.1010 Evaluation By State Board

226.1020 Bases of Evaluation

226.1030 Elements of State Board Evaluation

226.1040 Availability of State Board Evaluation

226.1050 Effect of Evaluation on School District

SUBPART O: SPECIAL EDUCATION SERVICES FOR CHILDREN IN RESIDENTIAL CARE FACILITIES

Section

226.1110 Equal Access for Children in Residential Care Facilities

226.1112 Definitions from Section 14-7.03

226.1115 Exclusions When Implementing Section 14-7.03

226.1120 Enrollment in District Required

226.1125 Requirements for Educational Program on Site of Orphanage or Children's Home

226.1130 Approval of Special Education Program at Orphanage or Children's Home

226.1135 Least Restrictive Environment

226.1140 IEP for All Children

226.1145 Compliance With This Part Subject to State Board of Education Evaluation

226.1150 Criteria for Eligibility of Children

226.1155 Resident Children Eligible for All Privileges

226.1160 Local District Policies Applicable
226.1170 Communications Regarding Child's Special Education Reimbursement
226.1175
226.1180 Possible Waiver of Sections 226.1120 and 226.1150
226.1185 Computation of District's Reimbursement
226.1190 Preapproval Application
226.1195 Documentation of Expenses

AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of The School Code, (Ill. Rev. Stat. 1989, ch. 122, pars. 14-1.01 et seq. and 2-3.6).

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 10 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990.

NOTE: Capitalization denotes statutory language.

SUBPART B: RESPONSIBILITY FOR SPECIAL EDUCATION

Section 226.40 Rights of Children Requiring Special Education-Exclusion7-Suspension

The local school district shall be responsible for ensuring that those children who require special education services enjoy rights and privileges equal to those of all other children.

- a) No exceptional child between the ages of three and twenty-one may be permanently excluded from the public schools, either by direct action by the board of education, by indication of the district's inability to provide an educational program, or by informal agreement between parents and the school district to

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allow the child to remain without an educational program.

- b) A child who has been determined eligible for a special education instructional or resource program or related service shall not be expelled for behavior or a condition which is, or results from, an exceptional characteristic as defined in The School Code (Ill. Rev. Stat. 1989, ch. 122, pars. 14-1.02 and 14-1.03a) and this Part.

- 1) Nothing in these rules shall be construed to prohibit the suspension of any child; pending special education placement as herein provided, when such suspension is warranted due to physical danger to the student, other students, faculty, or school property caused by the child's presence.

- 2) If a child has been suspended due to physical danger to himself or herself, other students, faculty, or school property caused by the child's continued presence in the local school district, shall be responsible for developing and providing an appropriate educational program during the period preceding special education placement.

- b) A child who has been determined eligible for a special education instructional or resource program or related service shall not be expelled for behavior or a condition which is, or results from, an exceptional characteristic as defined in The School Code (Ill. Rev. Stat. 1989, ch. 122, pars. 14-1.02 and 14-1.03a) and this Part.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990)

SUBPART I: IDENTIFICATION, EVALUATION AND PLACEMENT OF EXCEPTIONAL CHILDREN

Section 226.520 Notification to Parents of Exceptional Children

Parents or guardians of an exceptional child must be notified provided notice in writing by the local school district, said notice to be sent at least ten (10) calendar days prior to the event. When the local school district proposes to initiate or change the identification, case study evaluation, reevaluation, or educational placement of the child; or the lack of a provision of a free appropriate public education to the child refuses to

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initiate or change the identification, case study evaluation, reevaluation, or educational placement of the child.

a) The notice shall be:

- 1) Written in language understandable to the general public, and
- 2) Provided in the native language of the parent or other mode of communication used by the parents, unless it is clearly not feasible to do so.
- 3) If the native language or other mode of communication of the parent is not a written language, the local school district shall insure:

- A) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication,
- B) That the parent understands the content of the notice, and
- C) That there is written evidence on file that the requirements of these regulations have been met.

b) The notice shall contain:

- 1) A full explanation of all of the procedural safeguards available to the parents, including the availability upon request of a list of free or low cost legal and other relevant services available locally to assist parents in initiating an impartial due process hearing;
- 2) A description of the action proposed or refused by the local school district, an explanation of why that district proposes or refuses to take the action, and a description of any options that district considered and the reasons why those options were rejected;
- 3) A description of each evaluation procedure, test, record, or report that district used as a basis for the proposal or refusal; and

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- 4) A description of any other factors which are relevant to that district's proposal or refusal.

c) Record of such notice shall be entered in the child's temporary school student record.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990)

Section 226.525 Parental Consent for Case-Study-or-Initial PlacementParental-consent-shall-be-obtained-before:a) conducting-any-case-study-evaluation-or-reevaluation-of-the-childb) initial-placement-of-an-exceptional-child-in-a-program-providing-special-education-and-related-services.a) Written parental consent shall be obtained before conducting an initial case study evaluation of a child.b) Written parental consent shall be obtained before conducting any reevaluation other than the required triennial reevaluation. Written parental consent is also required for the triennial reevaluation when it includes any components which were not included in the child's most recent case study evaluation. The district must request a due process hearing when ten calendar days have elapsed since a request for consent to reevaluate was sent and the parent has either failed or refused to provide written consent.c) No written parental consent shall be obtained for a required triennial reevaluation consisting solely of components in the child's most recent case study evaluation. Written notice, sent to the parents at least ten days prior to conducting the reevaluation, shall be provided.d) Written parental consent shall be obtained before implementing the initial placement of an exceptional child in a program providing special education and related services.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990)

Section 226.552 Characteristics Determining Eligibility for Special Education

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Eligibility for special education programs and services shall be determined by the presence of one or more of the following exceptional characteristics:

- a) Visual impairment - The child's visual impairment is such that the child cannot develop his or her educational potential without special services and materials.
- b) Hearing impairment - The child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication. Or the child exhibits a hearing loss which prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning achievement.
- c) Physical and health impairment - The child exhibits a physical or health impairment, either temporary or permanent, which interferes with his or her learning and/or which requires adaptation of the physical plant.
- d) Speech and/or language impairment - The child exhibits deviations of speech and/or language processes which are outside the range of acceptable deviation within a given environment and which prevent full social or educational development.
- e) Specific learning disability - The child exhibits a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.
- f) Education handicap - ~~The child exhibits educational related adjustment-related-to-social-or-cultural circumstances.~~ After September 1, 1991, no child may be identified pursuant to this Part as educationally handicapped. Children identified under this

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Characteristic prior to September 1, 1991, must be reevaluated and their eligibility for continued services under any other exceptional characteristic listed here determined. Disagreements regarding this determination shall be a basis for requesting an impartial due process hearing as delineated in Subpart J.

- g) Behavior disorder/emotional disorder - ~~The child exhibits an affective disorder and/or adaptive behavior which significantly interferes with his or her learning and/or social functioning.~~ term means a condition exhibiting one or more of the following characteristics over an extended period of time and to a marked degree, which adversely affects educational performance, even after supportive assistance has been provided. The student must demonstrate an inability to learn which cannot be explained by intellectual, sensory, health, cultural, or linguistic factors; an inability to develop or maintain satisfactory interpersonal relationships with peers and adults; or inappropriate types of behavior or feelings under normal circumstances; or a general pervasive mood of anxiety, unhappiness, depression; or a tendency to develop physical symptoms or fears associated with personal or school problems.
- h) Mental impairment - The child's intellectual development, mental capacity, adaptive behavior, and academic achievement are markedly delayed. Such mental impairment may be mild/moderate, severe, or profound.
- i) Multiple impairment - The child exhibits two or more impairments, ~~severe~~ severe in nature or total impact, which significantly affect his or her ability to benefit from the educational program.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990)

Section 226.555 Determination of Recommendations for Special Education Placement and Related Services Eligibility

Recommendations made at the multidisciplinary conference shall be determined by consensus of the participating public school personnel; if an agreement cannot be reached, additional information shall be obtained. In considering a child with mental impairment, a certified school psychologist must concur

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with the child's eligibility based on the results of a psychological evaluation. In order for an eligibility decision to occur, the child must be evaluated in accordance with these regulations, found to exhibit one or more of the exceptional characteristics listed in Section 226.552 which adversely affect the child's educational performance, and require special education and related services. Without an adverse effect on educational performance caused by the exceptional characteristic, the child cannot be eligible for special education and related services.

- a) Recommendations for special education placement shall be based on the following:
- 1) The child shall be placed in the educational program which is appropriate to the student's needs and least restrictive of the interaction with nonhandicapped children.
 - 2) The special education placement must be based on the child's IEP, and located as close as possible to the child's home.
 - 3) Unless a handicapped child's IEP requires some other arrangement, the child must be educated in the school which he or she would attend if not handicapped.
 - 4) Consideration must be given to any potentially harmful effect on the child, on the quality of services which he or she needs, or that which impedes the education of other students in the environment.
 - b) The proposed placement shall be consistent with the findings of the case study evaluation and the established eligibility of the child.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990.)

Section 226.560 Placement Recommendation and Development of IEP and Placement Decision

If the initial a multidisciplinary conference was held for the purpose of formulating a placement recommendation determining eligibility, an additional meeting or meetings must be held for the purpose of developing, reviewing, and/or revising the exceptional child's IEP and determining placement based upon the IEP. Each local district must be responsible for initiating and

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conducting one or more meetings for the purpose of developing, reviewing and revising the IEP. The meeting at which an exceptional child's IEP is developed must be held within thirty (30) days of a determination that the child needs is eligible for special education and related services.

a) Parents of an exceptional child must be notified of the meeting to develop, review, and revise an exceptional child's IEP. The local school district must take steps to insure that the parents of an exceptional child are present at each meeting or are afforded the opportunity to participate, including:

- 1) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend; and
- 2) Scheduling the meeting at a mutually agreed on time and place.
- 3) The notice must indicate the purpose, time and location of the meeting, and who will be in attendance.

b) The following participants must be included in the IEP meeting:

- 1) A representative of the local district, other than the child's teacher, who is authorized to commit services and who is qualified to provide or supervise the provision of special education (e.g., the state-approved special education director or designee).
- 2) The child's teacher. Teacher organization representatives may not attend without parental and district consent.
- 3) One or both of the child's parents or guardians.
 - A) If neither parent can attend, the local district shall use other methods to insure parent participation, including individual or conference telephone calls.
 - B) A meeting may be conducted without a parent in attendance if the local district is unable to convince the parents that they should attend. In this case the local district must

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have a record of its attempts to arrange a mutually agreed on time and place such as:

- i) Detailed records of telephone calls made or attempted and the results of those calls.
- ii) Copies of correspondence sent to the parents and any responses received, and
- iii) Detailed records of visits made at the parent's home or place of employment and the results of those visits.

- 4) The child, where appropriate.
- 5) Other individuals at the discretion of the parent or local district.
- c) For an exceptional child who has been evaluated for the first time, the local district shall insure that a member of the evaluation team participates in the meeting or that the representative of the local district, the child's teacher, or some other person who is knowledgeable about the evaluation procedures used with the child and is familiar with the results of the evaluation, participates in the meeting, as well as an interpreter for the deaf if necessary.

d) Recommendations for special education placement shall be based on the following, consistent with Section 226.550(b)(4):

- 1) The child shall be placed in the educational program which is appropriate to the student's needs and least restrictive of the student's interaction with nonhandicapped children.
- 2) The special education placement must be based on the child's IEP, and located as close as possible to the child's home.
- 3) Unless a handicapped child's IEP requires some other arrangement, the child must be educated in the school which he or she would attend if not handicapped.

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- 4) Consideration must be given to any potentially harmful effect on the child, or the quality of services which he or she needs.

e) The proposed placement shall be consistent with the findings of the case study evaluation.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990)

SUBPART J: LEVEL I AND LEVEL II DUE PROCESS HEARINGS

Section 226.605 Request for Level I Hearing

- a) The parents or other representatives of the child, the school district, or the student acting upon his or her own behalf may request a Level I hearing.
- b) A Level I hearing may be requested for, but not limited to, the following reasons:
 - 1) Objection to signing consent for a proposed case study evaluation or initial placement.
 - 2) Failure of the local school district, upon request of the parents, other persons having primary care and custody of the child, the child, or the State Board of Education (in this Subpart, the State Board), to provide a case study evaluation.
 - 3) Failure of a local school district to consider evaluations completed by qualified professional personnel outside the school district.
 - 4) Objection to a proposed special education placement, either an initial placement, a continuation of a previous placement, or a major change in the placement.
 - 5) Termination of a special education placement.
 - 6) Failure of the local school district to provide a special education placement consistent with the finding of the case study evaluation and the recommendations of the multidisciplinary conference.
 - 7) Failure of the local school district to provide the least restrictive special education placement appropriate to the child's needs.

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must be placed in the public school program until the completion of all the proceedings.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990)

Section 226.612 Request for Hearing To Be Made to Superintendent (Repealed)

A request for a hearing shall be made, in writing, to the superintendent of the local school district in which the child is a resident. Such a request shall contain the reasons the hearing is being requested and all other information pertinent to the request.

a) A request for a hearing or an appeal to the State Board of Education may be made at any time significantly different circumstances prevail, otherwise, a hearing may not be requested nor an appeal made more than once each calendar year.

b) Such a request shall be made in writing, within ten (10) calendar days of the parents' receipt of the written notification regarding the proposed placement. If the parents have not made a request within the ten (10) day period, the parent may request a hearing at a later date in accordance with Section 226.605.

(Source: Repealed at 15 Ill. Reg. 40, effective Dec. 24, 1990)

Section 226.615 Local School District Request or Response thereto Request for Hearing

pursuant to Section 226.605 of this Subpart, either the district or the parents of the any child resident within the district may request a Level I hearing. A parental request for a hearing shall be made, in writing, to the superintendent of the local school district in which the child is a resident.

a) If the district makes the request, it shall be sent in writing to the State Board, attention Special Education Department, in Springfield, and at the same time a copy shall be sent to the other party. This letter shall include the information set forth in subsection (b) (1) (A), (C) and (D) of this Section.

b) If when the local school district receives and agrees to a request for a Level I hearing from the parents of the child, pursuant to Section 226.612 of this Subpart,

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8) Provision of special education instructional or resource programs, or related services in an amount insufficient to meet the child's needs.

9) A suspension totaling individually or in aggregate ten (10) or more school days in a given school year of a child who is in a special education instructional or resource program or who receives special education related services.

10) A suspension totaling individually or in aggregate ten (10) or more school days in a given school year of a child who is eligible for a special education instructional program or resource service but who has not been placed in such a program or provided such a service.

11) Reasonable belief by the parents, other persons having primary care and custody of the child, or the child, that the child's suspension or expulsion resulted from behavior or a condition symptomatic of an exceptional characteristic as defined in Sections 14-1.02 through 14-1.07 of the School Code (111 Rev. Stat., 1987, ch. 122, pars. 14-1.02 through 14-1.07) and this Part.

2) Recommendation for the graduation of an exceptional child.

10) Failure of the local school district to ensure the provisions of Section 226.40.

11) Failure of the local school district to comply with any of these rules and/or The School Code.

12) Failure of the local school district to provide an exceptional child with a free appropriate public education.

c) Receipt of a request for an impartial due process hearing shall cause the child to remain in his or her current educational placement, unless a mutual agreement is reached between the parents and local school district, until the matter is resolved.

d) If the child is receiving no educational service and the parents are seeking initial placement in a public school, the child, with the consent of the parents,

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then within five (5) school days of its receipt of the request the local school district shall:

- 1) Send a certified letter to the State Board (attention Special Education Department, in Springfield) requesting the appointment of a Level I hearing officer. This letter shall include:
 - A) the name, address, and telephone number of the child and parents, and of the person making the request for the hearing, if it is someone other than the child or parents;
 - B) the date on which the request for the hearing was received by the local school district;
 - C) the nature of the controversy to be resolved;
 - D) the primary language spoken by the parents and child; and
 - E) a copy of the parent's request.

- 2) Send to the person requesting the hearing, by certified mail, a copy of the letter sent to the State Board.

- A) If the hearing has been requested by someone other than the child's parents, the district shall inform the parents by certified mail of the request and invite them to participate in the proceedings.

- B) All references to parents made in the remainder of this Subpart shall be understood to include both the parents and the person requesting the hearing.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990.)

Section 226.620 Denial of Hearing Request (Repealed)

- a) If the district decides not to honor the request for a hearing, the parents of the student shall be notified of this denial. Such notification shall be made in writing within five (5) calendar days of the district's receipt of the request and shall set forth the specific reason(s) for the denial. The notice of denial shall inform the parents of their right to appeal the denial.

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The district shall, at the same time, transmit a copy of the notice of denial to the State Board in Springfield.

- b) The district's denial of the hearing request must be based upon, and the notice of denial must set forth, at least one of the following reasons:
 - 1) the student is not a resident of the district, and/or
 - 2) a level I Hearing or a level II Review was completed during the previous calendar year, the district complied with the final binding order and continues to implement the decision, and the new request, if honored, would result in a second hearing of substantially the same issues upon the same facts.

If the district denies the request for a hearing, or fails within five (5) calendar days of its receipt of said request either to deny the request or to initiate the hearing procedures, the parents may submit a written request to the State Board for a review of the district's denial, or for a notice from the State Board to the district that it must immediately initiate the hearing procedures if it has failed to take any action. If the parents are requesting a review by the State Board of a district denial, the State Board shall conduct such inquiries as it deems necessary to determine:

- 1) whether the student is a resident of the district, and/or

2) whether a level I Hearing or a level II Review and decision was issued during the previous calendar year, and became final and binding upon the parties, and if so;

- 3) whether the district has been found to be in compliance with the decision.

If the State Board determines that a binding decision remains in effect and that the basis of the new request is substantially the same as the basis of the previously resolved dispute, or that the student is not a resident of the district, it shall notify the parents of its determination and that it will not advise the

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district-to-honor-the-request-for-a-new-hearing--The State Board shall make such a determination within ten (10) calendar days after its receipt of the request from the parents and shall transmit its determination in writing to the parties.

e) If the State Board determines, pursuant to the criteria set forth in subsection (c) of this Section, that the district has acted wrongfully in denying the request, it shall notify the parties of its determination in writing within ten (10) calendar days after receipt of the parents' request, and shall simultaneously notify the district that it is obligated to initiate the hearing.

f) If the State Board determines that the district's denial was proper, the parents may file an appeal of the State Board's decision. Such an appeal shall proceed in accordance with Section 226-688 et seq. of this Subpart. Similarly, if the State Board determines that the district is obligated to commence the procedures for convening a hearing, the district may file an appeal. The appeal shall also be subject to the provisions of Section 226-688 et seq. of this Subpart.

(Source: Repealed at 15 Ill. Reg. 40, effective Dec. 24, 1990)
Section 226.680 Filing of an Appeal

a) Any party aggrieved by the decision of the Level I hearing officer may file for a Level II review. The appeal request shall be in writing, shall be filed by mail or personal service no later than fifteen (15) thirty (30) calendar days after receipt by the party of the Level I hearing officer's decision, and shall be submitted to the State Board of Education, attention Legal Department, Suite 14-300, 100 West Randolph, Chicago, Illinois 60601. At the time of filing the appeal, the appealing party shall serve a copy of the appeal request upon the opposing party by mail or personal service.

b) A request for a Level II review shall:

- 1) state that an appeal of a Level I decision is being requested;

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- 2) set forth the portions of the Level I decision with which the party disagrees;
- 3) set forth the reasons the decision should be changed;
- 4) state the relief requested;
- 5) set forth a request for oral argument, if desired; and
- 6) state that a copy of the request has been served on the opposing party.

c) Upon receipt of the any appeal request, the State Board of Education shall immediately transmit to the parties by certified mail a list naming five available and qualified impartial reviewing officers. Upon receipt of said list, the district's representative shall immediately telephone the parents. The parties shall then, with the parents striking first, alternately strike names from the list of reviewing officers until only one name remains. The reviewing officer whose name remains shall be the reviewer selected by the parties. The district shall, no later than five (5) calendar days after receipt of the list by the parties, telephone the Legal Department of the State Board of Education and provide the name of the selected reviewing officer. The district shall simultaneously send verification in writing by certified mail of the name of the selected reviewing officer to the Legal Department of the State Board of Education and to the opposing party.

d) To ensure immediate transmittal of the list of five qualified reviewing officers, the Legal Department of the State Board of Education shall maintain a registry of all persons qualified pursuant to Section 14-8.02(h) of The School Code (Ill. Rev. Stat. 1985 1982, ch. 122, par. 14-8.02(h)) as amended by Public Act 84-1054, effective January 17, 1986. The Legal Department shall ensure that each person on the list of five reviewing officers to be sent to the parties is trained as provided by Section 14-8.02(h) of The School Code, is not subject to disqualification pursuant to any of the restrictions provided for in the statute affecting impartiality, and is not presently conducting a Level II review. Upon request for appeal, the Legal Department shall confirm the availability of the

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persons whose names will appear on the list to be transmitted to the parties. The State Board of Education shall send to the parties the names of the first five reviewing officers from the registry who are available and possess the qualifications set forth in this subsection. Upon receiving notice by telephone from the district of the name of the selected impartial reviewing officer, the Legal Department shall immediately notify the reviewing officer selected. The State Board shall place the names of the reviewing officers not selected on the bottom of the registry list.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990.)

Section 226.684 Placement of the Child Pending Completion of a Level II Review

Unless the parents and the district agree otherwise, the child's placement shall not be changed following a request for a Level II review until such time as a binding decision is issued and all appeals are exhausted. If the parents and the district cannot agree and if either party determines that the conduct or condition of the child whose needs are at issue is such that the health or safety of the child is endangered or the health or safety of other children is threatened, then the district or the parents may submit a written request to the State Superintendent of Education for permission to effectuate an emergency interim placement of the child. The decision of the State Superintendent shall be binding upon both parties pending completion of the review and issuance of the final order.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990.)

SUBPART K: SURROGATE PARENTS

Section 226.720 Contacting Parents of Child

The local school district shall make all reasonable attempts to contact the parents of the child who has been referred. If the parent is unavailable or inaccessible and the local school district has reason to believe that a surrogate parent is needed, cannot be identified, the parent's whereabouts cannot be discovered, or the child is a ward of the state, the district shall request for the appointment of a surrogate parent by such a person shall be sent to the State Board of Education, Regional Division, Springfield.

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- a) The local school district shall provide documentation of their efforts to contact the parents.
- b) The local school district shall provide information on the racial, linguistic and cultural background of the child whose parents are unavailable or inaccessible who is in need of a surrogate parent.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990.)

Section 226.730 Appointment of Surrogate Parent

Within five (5) calendar days of receipt of the request for the appointment of a surrogate parent, the State Superintendent of Education shall consider the request. If the State Superintendent of Education decides that a surrogate parent is required, the State Board of Education shall appoint one or more persons to represent the interests of the child. Such an appointment shall be made not more than ten (10) calendar days after receipt of the district's request.

- a) A surrogate parent may be any responsible citizen other than an employee of the State Board of Education, the local school district in which the child is enrolled, an agency created by joint agreement, or an agency involved in the education or care of the student.
- b) The surrogate parent must meet the following criteria:

- 1) All reasonable attempts shall be made to secure a surrogate parent whose racial, linguistic, and cultural background is similar to the child's.
- 2) The surrogate parent must be trained by the State Board of Education.
- 3) The surrogate parent has no interest that conflicts with the interests of the child he or she represents.

(Source: Amended at 15 Ill. Reg. 40, effective Dec. 24, 1990.)

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- 1) Heading of Part: Prelicensing and Continuing Education
- 2) Code Citation: 50 Ill. Adm. Code 3119

3) Section Number: Adopted Action:

3119.20	Amended
3119.30	Amended
3119.40	Amended
3119.50	Amended
3119.60	Amended
3119.70	Amended
3119.Exhibit A	Amended
3119.Exhibit B	Amended
3119.Exhibit C	Amended
3119.Exhibit D	Amended

- 4) Statutory Authority: Implementing Section 143 and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, pars. 755, 1065.41-1 and 1013).

- 5) Effective Date of Amendments: January 1, 1991

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference?

No

- 8) Date filed in Agency's Principal Office: December 21, 1990

- 9) Notice of Proposal Published in Illinois Register:

July 27, 1990, 14 Ill. Reg. 12127

- 10) Has JCAR issued a Statement of Objections to this rule? No

- 11) Difference(s) between proposal and final version:

- a) Section 3119.60(c)(2) - On line two the words "similar general knowledge" have been deleted and the following text has been added following "courses" "whose subject matter does not increase the knowledge of insurance principles and coverages, applicable laws, and insurance regulations."

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- b) Section 3119.70(a)(6)(C) - On line two the word "misleading" has been deleted.
- c) Section 3119.70(a)(6)(D) - On line two the remaining text following the words "completion form" has been deleted and a period has been inserted thereafter.
- d) Section 3119.70(a)(8) - On line three the word "misleading" has been deleted.
- e) Section 3119.Exhibit A and B - The word "Publishers" has been made a singular possessive. Also, the word "will" has been deleted in reference to disqualification and the word "shall" has been added in lieu thereof.
- f) The Department has added effective dates to Exhibits A, B, C, and D and we have added headings in Exhibit C and D.

- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?
Yes

- 13) Will this rulemaking replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of rulemaking: The general purpose of this Part is to establish prelicensing education requirements for applicants for an insurance producer license. This rulemaking has updated the existing rule to achieve update standards.

- 16) Information and questions regarding this adopted amendments shall be directed to:

Bruce Cassens, Education Coordinator
Department of Insurance
320 West Washington
Springfield, Illinois 62767

The full text of the Adopted Amendments begins on the next page.

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER II: INSURANCE PRODUCER, LIMITED
INSURANCE REPRESENTATIVES AND
REGISTERED FIRMS

PART 3119
PRELICENSING AND CONTINUING EDUCATION

Section	Purpose
3119.10	Definitions
3119.20	Provider Responsibilities
3119.30	Responsibilities of Applicants for Insurance Producer Licenses and Licensed Insurance Producers
3119.40	Pre-Licensing - Course of Study Requirements
3119.50	Continuing Education Requirements
3119.60	Course and Provider Disqualification
3119.70	Severability
3119.80	REQUEST FOR CERTIFICATION OF A PRE-LICENSING COURSE
3119.EXHIBIT A	REQUEST FOR CERTIFICATION OF A CONTINUING EDUCATION COURSE
3119.EXHIBIT B	PRE-LICENSING EDUCATION - PROOF OF COMPLETION
3119.EXHIBIT C	CONTINUING EDUCATION - PROOF OF COMPLETION
3119.EXHIBIT D	CLASS OF INSURANCE - LIFE
3119.EXHIBIT E	CLASS OF INSURANCE - ACCIDENT/HEALTH
3119.EXHIBIT F	COURSE OF STUDY - FIRE
3119.EXHIBIT G	COURSE OF STUDY - CASUALTY/MOTOR VEHICLE
3119.EXHIBIT H	

AUTHORITY: Implementing Section 143 and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, pars. 755, 1065.41-1 and 1013).

SOURCE: Adopted at 9 Ill. Reg. 80, effective January 1, 1985; amended at 15 Ill. Reg. 69 effective January 1, 1991.

Section 3119.20 Definitions

For the purposes of this Part, the following definitions shall apply:

"Course" - Any course of study certified to the Director as meeting the requirements of this Part, including but not limited to seminar, classroom and self-study formats.

"Date of Original Issue" - The date of the issuance of a producer's license. Any lapse or suspension of one three years or more shall

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establish a new date of original issue and subject the person to this Part.

"Producer" - Any individual licensed as an insurance producer after January 1, 1985 and who is in the first four 12-month periods after the date of original issue.

"Provider" - Any person who offers a course for which certification has been received by the Director.

"Successful Completion" - Passing an examination in accordance with Criteria established by the provider.

"Supervised Examination" - A proctored, timed and closed book examination.

(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)

Section 3119.30 Provider Responsibilities

a) Each provider shall submit a certification form to the Director for each course it intends to offer for pre-licensing or continuing education credit. Seminar certifications must contain the dates of all future presentations. Certification must be on a form as prescribed by either Exhibit A or B, whichever is applicable.

b) Each provider shall submit a new certification form any time there is a significant change in the course.

c) Each provider shall maintain a copy of all instructional materials for each course. If the provider ceases to offer a course or makes a significant change in the course materials, the provider shall maintain the original material for three-years one year from the date such course was terminated or significantly changed.

d) Each provider shall issue to each student either a record of attendance or record of successful completion of a course. Records shall contain the following information:--name of provider;--name of student;--course identification;--instructor name;--hours of credit or attendance;--and;--date of attendance or completion.

d) Each provider shall maintain the following records for three years at a central location:

- 1) Classroom or seminar - roster for each classroom course or seminar identifying the instructor(s), the student, the course,

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the location, the date and hours of attendance, the completion date, and the results of any examinations administered.

- 2) Self-study - name of student, name of course, date of completion, and results of examinations.
 - e) Each provider shall issue to each student an Exhibit C for pre-licensing, or Exhibit D for continuing education pursuant to the criteria established in Section 3119.50(b) or 3119.60(d).
 - f) Instructors shall meet the following minimum requirements; either a Bachelor's degree or four three years experience in the course subject matter. Providers must maintain evidence of such qualifications while the instructor is actively engaged in instructing the course and for three-years one year thereafter.
 - fg) Providers shall, upon the request of the Director, provide a copy of all course material, student provider records, and evidence of instructor's qualifications to the Director. All such requests shall be subject to a warrant of the Director and for the express purpose of gauging compliance with the Illinois Insurance Code and Departmental regulations pertaining thereto.
 - a) Providers shall, upon the request of the Director, provide a copy of all course material, student provider records, and evidence of instructor's qualifications to the Director. All such requests shall be subject to a warrant of the Director and for the express purpose of gauging compliance with the Illinois Insurance Code and Departmental regulations pertaining thereto.
- (Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)
- Section 3119.40 Responsibilities of Applicants for Insurance Producer Licenses and Licensed Insurance Producers
- a) Applicants for Insurance Producer Licenses
- Each applicant shall complete the pre-licensing education requirements for the insurance producer license being applied for before submitting their application to the Director. The pre-licensing education course must be used within one year of completion. Each applicant shall submit the original proof of completion of the requirements with the application as set forth in Exhibit C.
- b) Licensed Insurance Producers
- 1) Each producer shall complete at least 25 hours of continuing education requirements prior to requesting an extension of an insurance producer license. A copy of student records and an original proof of completion form (as set forth in Exhibit D) shall be submitted to the Director at the time extension of the license is requested.

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- 2) Courses-completed-prior-to-date-of-original-issue Hours taken, course material provided or presented in whole, in part or in conjunction with a pre-licensing course which is not prescribed as pre-licensing education requirements shall not be used to meet continuing education requirements.
 - 3) Courses initiated or completed prior to the original issue date of the license shall not be used to meet continuing education requirements.
 - 34) Each producer may carry forward a maximum of 25 credit hours but only to the next 12 month period. Each producer shall maintain proof of successful completion and/or attendance to substantiate any carry-over credit.
 - 45) Each producer shall maintain proof of credits for a period of 5 years after date of original issue.
(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)
- Section 3119.50 Pre-Licensing - Course of Study Requirements
- a) The certification form must be received by the Director at least 30 days prior to any course being offered.
 - b) A course to be certified by the provider as a pre-licensing course of study shall meet the content requirements of Section 494.1(a) of the Illinois Insurance Code (Code) and time distribution requirements as set forth in Exhibit E, F, G or H, whichever is applicable.
 - c) For the purposes of this Section, the minimum number of hours may be made up of any combination of classroom, seminar or self-study hours. A self-study course must have an examination.
(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)
- Section 3119.60 Continuing Education Requirements
- a) The certification form must be received by the Director at least 30 days prior to any course being offered.
 - b) For the purposes of this Section, "full credit" shall mean the amount of time as certified by the provider as necessary for a student to study for and pass an examination, or in the case of a

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course with no examination, the number of documented classroom attendance hours.

- c) Courses shall be insurance-oriented, but may include other subject material, such as sales, marketing, motivation, prospecting and psychology only if such material is incidental to and an integral part of the course. To be considered as incidental, the number of hours may not exceed 50% of the total number of hours devoted to acceptable basic course material. The following courses shall not be considered for continuing education:
- 1) Courses used for insurance pre-licensing training or insurance qualifying examination preparation.
- 2) Courses teaching general business, general accounting, management, communication, computer operation and other courses whose subject matter does not increase the knowledge of insurance principles and coverages, applicable laws, and insurance regulations.
- 3) Courses with less than three hours of certified continuing education credit.
- d) The value of course credit for the purposes of this Section shall be determined as follows:
 - 1) Supervised Examinations
 - A) Successful Completion
Students who successfully complete a supervised examination will receive full credit for the course.
 - B) Unsuccessful Completion
Students who do not successfully complete a supervised examination shall receive one hour of credit for each hour of documented classroom attendance or not to exceed 50% of full credit, whichever is greater.
 - 2) Non-Supervised Examination

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A) Successful Completion

Students who successfully complete a non-supervised examination will receive full credit for the course.

B) Unsuccessful Completion

Students who do not successfully complete a non-supervised examination will receive no credit.

3) Courses Without Examination

Students will receive one-hour-of credit for each hour-of documented attendance based on the certified hours assigned to the course.

e) No additional credit will be given to a producer for a course that has been successfully completed and for which the producer has previously received credit.

f) The maximum credit a producer can receive for any one course is 25 hours.

(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)

Section 3119.70 Course and Provider Disqualification

a) The Director may disqualify any provider and/or any provider's course(s) if the Director finds that:

- 1) the provider or course has not met the requirements of this Part;
- 2) the provider has made a material misstatement or intentional misrepresentation on a certification form filed with the Director; a misstatement will be considered material if the course would not have been certified in the absence of such statement.
- 3) the provider has intentionally misrepresented itself or its course to students or prospective students.
- 4) the provider has violated any commitment made in the request for certification and supplementary attachments thereto including failure to maintain the standards and method of operation set forth in the request for certification and any supplementary attachments thereto.

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- 5) the provider has employed instructors who do not meet the requirements of Section 3119.30(e) of this Part;
- 56) the provider is deemed by the Director to have failed to act in good faith in providing a course. A failure to act in good faith may only be evidenced by the following:

- A) a student pass/fail ratio inconsistent with those of other providers for courses which are similar in content and difficulty;
- B) the number of complaints received by the Director which specifically relate to the provider's course(s);
- C) provides to the student a proof of completion form which contains false, or incomplete information;
- D) provides to the student a partially completed proof of completion form.

- 67) the provider has failed to maintain the materials and records for courses, instructors and students as required by this Part or pursuant to Section 3119.30.

- 8) the provider failed upon request of the Director to provide the Director with information and records required by this Part or the provider provided false, or incomplete information or records.

- b) Disqualification of a provider or course pursuant to this Section shall be by written order sent to the provider by certified or registered mail at the address specified in the records of the Department. The provider may in writing request a hearing in accordance with 50 Ill. Adm. Code 2402, within 30 days from the date of mailing. If no written request is made, such order shall be final upon the expiration of said 30 days.

- c) If the provider requests a hearing pursuant to this Section within 30 days, then the Director shall issue within 30 days of receipt of such request a written notice of hearing to the provider by certified or registered mail sent to the provider to the address as specified in the records of the Department, and stating:

- 1) The grounds, charges or conduct which justifies disqualification under this Section;

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- 2) A specific time for the hearing, which may not be less than 20 days nor more than 30 days after the mailing of the notice of hearing; and
- 3) A specific place for the hearing.
- d) Upon disqualification, the provider shall immediately discontinue offering its course(s) as a certified course(s). The Director shall publish all final disqualification.
- e) In any order of disqualification, the Director shall give consideration of credit hours to present students.
- (Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)

SECTION 3119. EXHIBIT A REQUEST FOR CERTIFICATION OF A PRE-LICENSING COURSE

ILLINOIS DEPARTMENT OF INSURANCE
320 WEST WASHINGTON STREET
SPRINGFIELD, ILLINOIS 62767
EFFECTIVE: 01/01/91

PROVIDER'S NAME: _____

FEDERAL EMPLOYER'S I.D./SOCIAL SECURITY NO.: _____

PROVIDER'S ADDRESS: _____

PROVIDER'S TELEPHONE NUMBER: _____

COURSE TITLE: _____

FIRST DATE COURSE TO BE OFFERED: _____

IF-SEMINAR, DATES OF ALL FUTURE PRESENTATIONS: _____

CLASS(ES) OF INSURANCE TO WHICH COURSE IS APPLICABLE:

____ LIFE ____ ACCIDENT & HEALTH ____ PROPERTY ____ CASUALTY ____ MOTOR VEHICLE

INSTRUCTION METHOD

-----CLASSROOM

-----CORRESPONDENCE

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-----SEMINAR

-----EXAMINATION

CREDIT-HOURS-REQUESTED

CLASSROOM-HOURS

SEMINAR-HOURS

-----SELF-STUDY

-----OTHER-(Explain)

EXAMINATION

SELF-STUDY-HOURS

TOTAL-HOURS-REQUESTED

OTHER-STATES-THAT-HAVE-APPROVED-THIS-PRE-LICENSING-COURSE:

STATE

HOURS-APPROVED

FOR USE BY THE OFFICE OF THE DIRECTOR OF INSURANCE ONLY

Course certified for Pre-licensing Education credit hours.

Course not certified for Pre-licensing Education credit hours.

Comments:

INSTRUCTION METHOD/HOURS

NUMBER OF CLASSROOM HOURS

NUMBER OF SEMINAR HOURS

NUMBER OF CORRESPONDENCE (SELF-STUDY) HOURS
(NOTE: MUST HAVE EXAMINATION)

NUMBER OF OTHER HOURS (EXPLAIN)

NUMBER OF EXAMINATION HOURS

TOTAL NUMBER OF HOURS REQUESTED

IS COURSE AVAILABLE TO PUBLIC

YES

NO

IF USING A PUBLISHER'S COURSE, SUBMIT A COPY OF TITLE PAGE AND PAGE WITH DATE OF COPYRIGHT. IF NOT USING PUBLISHER'S TEXT, SUBMIT COURSE OUTLINE.

SUBMIT SEPARATE EXHIBIT A FOR EACH CLASS OF INSURANCE.

We do certify that this course meets all of the applicable requirements of Part 3119 and that we will maintain and provide students all applicable records required by Part 3119. We understand that failure to comply with the requirements of Part 3119 shall result in our disqualification.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Signature

Name

Title

Date Submitted

FOR USE BY THE OFFICE OF THE DIRECTOR OF INSURANCE ONLY

Course certified for Pre-licensing Education credit hours.

Course not certified for Pre-licensing Education credit hours.

Comments:

BY:

(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)

SECTION 3119.EXHIBIT B REQUEST FOR CERTIFICATION OF A CONTINUING EDUCATION COURSE

ILLINOIS DEPARTMENT OF INSURANCE

320 WEST WASHINGTON STREET

SPRINGFIELD, ILLINOIS 62767

EFFECTIVE: 01/01/91

PROVIDER'S NAME:

FEDERAL EMPLOYERS I.D./SOCIAL SECURITY NO.:

PROVIDER'S ADDRESS:

PROVIDER'S TELEPHONE:

COURSE TITLE:

DEPARTMENT OF INSURANCE

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FIRST DATE COURSE TO BE OFFERED: _____
CLASS(ES) OF INSURANCE TO WHICH COURSE IS APPLICABLE:

___ LIFE ___ ACCIDENT & HEALTH ___ PROPERTY ___ CASUALTY ___ MOTOR VEHICLE

INSTRUCTION-METHOD

-----CLASSROOM -----CORRESPONDENCE-(Self-Study)

-----EXAMINATION -----OTHER-(EXPLAIN)

-----SEMINAR

EXAMINATION-METHOD

-----SUPERVISED

-----NON-SUPERVISED

-----NO-EXAMINATION

NUMBER-OF-HOURS-NECESSARY-TO-STUDY-FOR-AND-PASS-EXAMINATION:

NUMBER-OF-CLASSROOM-OR-SEMINAR-HOURS-----
NUMBER-OF-STUDY-HOURS-----
NUMBER-OF-EXAMINATION-HOURS-----
TOTAL-NUMBER-OF-HOURS-----
CREDIT-HOURS-REQUESTED-FOR-APPROVAL-----

INSTRUCTION METHOD/HOURS

NUMBER OF CLASSROOM HOURS _____

NUMBER OF SEMINAR HOURS _____

NUMBER OF CORRESPONDENCE (SELF-STUDY) HOURS _____
(NOTE: MUST HAVE EXAMINATION)

NUMBER OF OTHER HOURS (EXPLAIN) _____

NUMBER OF EXAMINATION HOURS _____

TOTAL NUMBER OF HOURS REQUESTED _____

IS COURSE AVAILABLE TO PUBLIC YES NO

NOTICE OF ADOPTED AMENDMENTS

IF USING A PUBLISHER'S COURSE, SUBMIT A COPY OF TITLE PAGE AND PAGE WITH
DATE OF COPYRIGHT. IF NOT USING PUBLISHER'S TEXT, SUBMIT COURSE OUTLINE.

OTHER STATES THAT HAVE APPROVED THIS CONTINUING EDUCATION COURSE:

STATES

HOURS APPROVED

We do certify that this course meets all of the applicable requirements of
Part 3119 and that we will maintain and provide students all applicable
records required by Part 3119. We understand that failure to comply with
the requirements of Part 3119 shall result in our disqualification.

Signature _____

Name _____

Title _____

Date Submitted _____

IMPORTANT:--A-content-outline-of-the-course-must-accompany-this-form:

FOR USE BY THE OFFICE OF THE DIRECTOR OF INSURANCE ONLY

___ Course certified for ___ continuing education credit hours.

___ Course not certified for continuing education credit hours.

Comments:

By: _____

(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)

SECTION 3119. EXHIBIT C PRE-LICENSING EDUCATION - PROOF OF COMPLETION

NAME: _____ SOCIAL SECURITY NUMBER: _____
ADDRESS: _____
STUDENT'S NAME _____
STUDENT'S SOCIAL SECURITY NUMBER _____
STUDENT'S ADDRESS _____

COURSE PROVIDER'S CLASS OF TYPE COURSE (CLASSROOM-DAYE-COURSE-CREDIT-HRS		NAME-INSURANCE-SEMINAR-SELF-STUDY)---COMPLETED---EARNED---	
1.-----	-----	-----	-----
2.-----	-----	-----	-----
3.-----	-----	-----	-----
4.-----	-----	-----	-----
5.-----	-----	-----	-----
TOTAL CREDIT HOURS EARNED:-----			

TYPE LICENSE BEING REQUESTED: _____
---LIFE---HEALTH---PROPERTY---CASUALTY---MOTOR VEHICLE

I certify that I personally completed the above course(s): _____

Student's Signature _____ Date _____
Authorized Signature for Provider _____ Date _____
Printed Name for Authorized Signature _____ Printed Name of Instructor _____

DO NOT OMIT IDENTIFICATION AND COURSE NUMBERS OR YOUR REQUEST WILL NOT BE HONORED.
(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)

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SECTION 3119, EXHIBIT D CONTINUING EDUCATION - PROOF OF COMPLETION

NAME:-----

ADDRESS:-----

SOCIAL SECURITY NUMBER:-----

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE

EFFECTIVE: 01/01/91

COURSE-PROVIDER'S CLASS-OF--TYPE-COURSE-(CLASSROOM-DATE-COURSE-CREDIT-HRS			
NAME	NAME	INSURANCE-SEMINAR-SELF-STUDY	COMPLETED-EARNED
1:-----	-----	-----	-----
2:-----	-----	-----	-----
3:-----	-----	-----	-----
4:-----	-----	-----	-----
5:-----	-----	-----	-----
TOTAL-CREDIT-HOURS-EARNED:-----			
CARRY-OVER-HOURS-----			
THE-ABOVE-CREDIT-HOURS-WERE-EARNED-AS-FOLLOWS:			
CLASSROOM-OR-SEMINAR-HOURS-----SELF-STUDY-----EXAMINATION-----TOTAL			
1:-----	-----	-----	-----
2:-----	-----	-----	-----
3:-----	-----	-----	-----
4:-----	-----	-----	-----
5:-----	-----	-----	-----
TYPE-OF-LICENSE-HELD:			
-----LIFE-----HEALTH-----PROPERTY-----CASUALTY-----MOTOR-VEHICLE			
I-CERTIFY-THAT-I-PERSONALLY			
COMPLETED-THE-ABOVE-COURSE(S):			

INFORMATION MUST BE PRINTED OR TYPED	
PRODUCER'S NAME	
PRODUCER'S SOCIAL SECURITY NUMBER	
COURSE NUMBER	
COURSE TITLE	
DATE COMPLETED	
CREDIT HOURS EARNED	(25 maximum for one course)
CERTIFIED PROVIDER NAME	
PROVIDER FEDERAL EMPLOYER'S IDENTIFICATION NUMBER (FEIN)	
PROVIDER SOCIAL SECURITY NO. (If provider is an individual)	

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Licensee's Signature

Date

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE

EFFECTIVE: 01/01/91

INFORMATION MUST BE PRINTED OR TYPED

PRODUCER'S NAME

PRODUCER'S SOCIAL SECURITY NUMBER

COURSE NUMBER

COURSE TITLE

DATE COMPLETED

CREDIT HOURS EARNED (25 maximum for one course)

CERTIFIED PROVIDER NAME

PROVIDER FEDERAL EMPLOYER'S IDENTIFICATION NUMBER (FEIN)

PROVIDER SOCIAL SECURITY NO. (If provider is an individual)

I hereby certify that the above information is true and correct to the best of my knowledge and belief; and that a false statement is cause for denial, suspension or revocation of license.

Producer's Signature

Date

I hereby certify that the above information is true and correct to the best of my knowledge and belief; and that a false statement is cause for provider disqualification.

Authorized Signature for Provider

Date

Printed Name for Authorized Signature

Printed Name of Instructor

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It is important that this form be completed and sent to the Department of Insurance attached only to the producer's license renewal application for the first four years following the original license issue date.

DO NOT OMIT IDENTIFICATION AND COURSE NUMBERS OR YOUR REQUEST WILL NOT BE HONORED.

(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)

Section 3119. EXHIBIT H COURSE OF STUDY - CASUALTY/MOTOR VEHICLE

Course of Study Content Requirements Time Distribution Requirements

I. Insurance and Insurance-Related Concepts 25%

- A. Risks
- B. Hazards
- C. Indemnity
- D. Insurable interest
- E. Actual cash value
- F. Negligence
- G. Liability
- H. Accident
- I. Occurrence
- J. Burglary
- K. Robbery
- L. Theft
- M. Mysterious disappearance
- N. Fidelity (employee dishonesty)
- O. Warranties
- P. Representations

II. Policy Provisions

- A. Declarations
- B. Definition of the insured
- C. Insuring agreement
- D. Duties of the insured
- E. Obligations of the company
- F. Cancellation and nonrenewal provisions
- G. Supplementary payments (additional coverages)
- H. Proof of loss (notice of claim)
- I. Arbitration
- J. Pro rata liability (other insurance)
- K. Subrogation
- L. Compliance with provisions of Fair Credit

20%

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Reporting Act

III. Types of Policies

25%

A. General liability

1. Owners, landlords, and tenants
2. Manufacturers, contractors
3. Products and completed operations
4. Contractual liability
5. Comprehensive general liability

B. Automobile-Personal and commercial auto insurance, including assigned risk and involuntary plans

- C. Workers Compensation
- D. Crime

1. Fidelity
2. Open stock burglary
3. Mercantile robbery and safe burglary
4. Money and security broad form

IV. Perils, Exclusions, Deductibles, and Liability 24%

- A. Bodily injury and property damage liability
- B. Perils covered
- C. Exclusions, extensions, limitations, and conditions
- D. Limits of liability
- E. Deductibles

V. Prospecting and Evaluating Needs

2%

- A. Keeps current as to changes (e.g., markets, introduction of new coverages) in types of coverages that might expand coverage for current clients or increase the number of potential clients
- B. Reviews prospect's existing policies to prevent duplication of coverage and determine areas of further potential coverage
- C. Obtains information necessary to analyze risks, hazards, and exposures
- D. Analyzes risks, hazards, and exposures in order to determine prospect's needs

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- E. Evaluates continued adequacy of protection, determines unprotected exposures, and recommends suitable changes in coverage
- F. Contacts accounts at renewal time and reviews existing policies

VI. Servicing Clients

2%

- A. Explains services (e.g., claims, safety programs) provided by agent and company
- B. Assists policyowner with service needs (e.g., change of name, policy loans, change of mode of premium payment)
- C. Maintains accurate records of client data (e.g., change of address)
- D. Assists in filing and following up of claims

VII. Presentation and Acceptance

2%

- A. Informs insured and carrier of date and time coverage takes effect
- B. Prepares and forwards proposal, application, and other pertinent information to appropriate carrier for underwriting and premium determination
- C. Maintains complete records of all business transactions as required (e.g., pending files, binders, and binder charges)

(Source: Amended at 15 Ill. Reg. 69, effective January 1, 1991)

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- 1) Heading of the Part: FEES FOR RADIOACTIVE MATERIAL LICENSES

- 2) Code Citation: 32 Ill. Adm. Code 331

- 3) Section Number:
- | | |
|----------------|-----------------|
| 331.10 | Adopted Action: |
| 331.20 | Amendment |
| 331.30 | Amendment |
| 331.110 | Amendment |
| 331.120 | Amendment |
| 331.130 | New Section |
| 331.200 | Amendment |
| 331.210 | Repealed |
| 331.310 | Amendment |
| 331.Appendix B | New Section |
| 331.Appendix C | New Section |

- 4) Statutory Authority: Implementing and authorized by Section 11 of the Radiation Protection Act of 1990 (P.A. 86-1341, effective September 7, 1990).

- 5) Effective Date of Amendment: January 1, 1991

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: December 24, 1990

- 9) Notice of Proposal Published in Illinois Register:

September 28, 1990, 14 Ill. Reg. 15672

- 10) Has JCAR issued a Statement of Objections to this amendment? No

- 11) Difference(s) between proposal and final version:

- a) In the Authority Note, the title of the Act has been changed to the "Radiation Protection Act of 1990" and the citation to the Public Act number has been inserted in lieu of the citation to the Illinois Revised Statutes.
- b) In Section 331.10, the title of the Act has been changed to the "Radiation Protection Act of 1990" and the citation to the Public Act number has been inserted in lieu of the citation to the Illinois Revised Statutes.

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- c) In Section 331.30, line 1, the word "part" has been changed to "part"; and in the second to last line of the definition of "Amendment fee", the word "does" has been changed to the word "do".
- d) In Section 331-Appendix B, the duplicate pages have been deleted.
- e) In Section 331-Appendix B, 101(A), lines 9 - 16 have been rewritten as follows: "distribution including, but not limited to, manufacturing of a chemical mixture, compound, solution or alloy which is listed in 32 Ill. Adm. Code 330.30:"
- f) In Section 331-Appendix B, 101(B), lines 7 - 14 have been rewritten as follows: "commercial distribution including, but not limited to, manufacturing of a chemical mixture compound, solution or alloy which is listed in 32 Ill. Adm. Code 330.30:"
- g) In Section 331-Appendix B, 104(D) has been renumbered to "104(E)" and a new subsection 104(D) has been added as follows:

"D. Diagnostic Medical Use - licenses restricted to only the diagnostic human use of radioactive material listed in 32 Ill. Adm. Code 330, Appendix C, Groups I, II and III; sealed sources for diagnosis; and in vitro kits, except as specified in 32 Ill. Adm. Code 330.220(i):

License Fee: \$ 2,477 \$ 2,972 \$ 3,567"

- h) In Section 331-Appendix B, 105, the reference to 32 Ill. Adm. Code 330.220(f) has been changed from "330.220(f)" to "330.220(i)".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this amendment replace an emergency amendment currently in effect: No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendment: This Amendment will establish the fees applicable to radioactive materials licenses and sealed source and device evaluations that will be in effect as of 1991. The Department is proposing that new fees be set at a level approximately 20% above the 1990 fees. In addition, the proposal anticipates that the fees be increased 20% in 1992 and 1993. The Department is also proposing to change the professional staff hourly rate from \$60.00 to \$75.00. This is the rate used to assess fees based on full cost of staff time. The proposal also calls for discontinuing the assessment of fees for most routine license

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amendments and for reducing the number of license categories. Finally, the proposed revisions would establish license fees for source material milling facilities, low-level radioactive waste disposal facilities and radioactive waste treatment facilities.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Betsy Salus
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9880

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 331
FEES FOR RADIOACTIVE MATERIAL LICENSES

Section	Purpose
331.10	Scope
331.20	Definitions
331.30	Exemptions
331.110	Payment of Fees
331.120	Refunds
331.130	Average Cost Per Professional Staff-Hour Full Cost of Review
331.200	Schedule of Fees For Radioactive Material Licenses (Repealed)
331.210	Schedule of Fees For Radioactive Material Licenses (Repealed)
331.310	Failure By Applicant or Licensee To Pay Prescribed Fee
331-APPENDIX A	SCHEDULE OF LICENSE FEES
TABLE A:	LICENSE FEES - JAN. 1, 1988 - DEC. 31, 1988
TABLE B:	LICENSE FEES - JAN. 1, 1989 - DEC. 31, 1989
TABLE C:	LICENSE FEES - JAN. 1, 1990 - DEC. 31, 1990
331-APPENDIX B	FEE SCHEDULE FOR RADIOACTIVE MATERIAL LICENSES
331-APPENDIX C	FEE SCHEDULE FOR SEALED SOURCE AND DEVICE EVALUATIONS

AUTHORITY: Implementing and authorized by Section 6b 11 of the Radiation Protection Act of 1990 (111 Rev. Stat. 1985, ch. 111, par. 216(b)), as amended by P.A. 86-700, effective September 22, 1987 P.A. 86-1341, effective September 7, 1990).

SOURCE: Adopted at 10 Ill. Reg. 17239, effective September 25, 1986; amended at 11 Ill. Reg. 20570, effective January 1, 1988; amended at 15 Ill. Reg. _____, effective January 1, 1991.

Section 331.10 Purpose

The regulations in this Part set out establish the fees charged for radioactive material licenses, and sealed source and device evaluations conducted in support of radioactive material licenses issued by the Illinois Department of Nuclear Safety (the Department) as authorized under Section 11 of the Radiation Protection Act of 1990 (111 Rev. Stat. 1985, ch. 111, par. 216(b) P.A. 86-1341). This Part shall not become effective for licenses authorizing the receipt, use, possession, storage, or disposal of byproduct material as defined in 4(a) of the Radiation Protection Act of 1990 (P.A. 86-1341) (i.e., licenses included in category 106A of Appendix B) until an agreement is entered into by the U.S. Nuclear Regulatory Commission and the

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State of Illinois which transfers to the State regulatory authority over such byproduct material, source material, special nuclear material in quantities not sufficient to form a critical mass, and low-level waste facilities.

(Source: Amended at 15 Ill. Reg. ____, effective January 1, 1991)

Section 331.20 Scope

Except for persons who apply for or hold only licenses exempted in Section 331.110, the regulations of this Part apply to a any person who is an applicant for, or holder of, a radioactive material license issued pursuant to 32 Ill. Adm. Code 330, 332 or 601, or a sealed source or device evaluation issued to a radioactive material licensee.

(Source: Amended at 15 Ill. Reg. ____, effective January 1, 1991)

Section 331.30 Definitions

The following definitions are applicable for use in this part Part only:
Additional definitions for use in this Part are located in 32 Ill. Adm. Code 310.20.

"Application" means a request filed with the Department for a license, amendment, amendment to terminate a license, renewal, sealed source or device evaluation, amendment to a sealed source or device evaluation, or amendment for an exemption granted by the Department pursuant to this Part 32 Ill. Adm. Code: Chapter II.

"Amendment" means a modification in the license document that reflects changes to a radiation safety program or a sealed source or device evaluation which do not meet the criteria of a minor amendment.

"Amendment fee" means fees assessed for modifying a previously approved sealed source or device evaluation, or for modifying a license to increase the number of permanent jobsites listed on the license, to add a new material use category or to change the radiation safety program at a licensed facility. For licenses based on the full cost of review "Amendment fees" do not include the fee associated with processing a "minor amendment".

AGENCY NOTE: For licenses based on fixed fees, there is no fee assessed for amendments to change the radiation safety program. The cost to the Department for processing such amendments is incorporated into the fixed license fee. For licenses based on fixed cost, fees for adding additional jobsites or for adding additional material use categories are assessed in accordance with Section 331.120.

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"Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of utilizing special nuclear material.

"Category I irradiator" means a gamma irradiator in which the sealed source is completely contained in a dry container constructed of solid material, the sealed source is shielded at all times, and human access to the sealed source and the volumes undergoing irradiation is not physically possible because of the design of the irradiator.

"Category II irradiator" means a controlled human access gamma irradiator in which the sealed source is contained in a dry container constructed of solid materials, is fully shielded when not in use, and is exposed within a radiation volume that is maintained inaccessible during use by an entry control system.

"Category III irradiator" means a gamma irradiator in which the sealed source is contained in a storage pool (usually containing water), the sealed source is shielded at all times, and human access to the sealed source and the volume undergoing irradiation is physically restricted in its design configuration and proper mode of use.

"Category IV irradiator" means a controlled human access gamma irradiator in which the sealed source is contained in a storage pool (usually containing water), is fully shielded when not in use, and is exposed within a radiation volume that is maintained inaccessible during use by an entry control system.

"Confirmatory environmental monitoring" means those surveys conducted by the Department either to establish whether the licensee has complied with the concentrations and exposure limits specified in 32 Ill. Adm. Code 332, 340, 601 or 606, or to provide data to evaluate potential health and environmental impacts resulting from licensed activities.

"Dispensing" means to remove aliquots of radioactive material from bulk stock and distribute portions to another licensee or to a person exempt from licensure.

"Distribution" means the transfer of radioactive material to three or more licensees or persons exempt from licensure pursuant to 32 Ill. Adm. Code 330 or 332.

"Educational institution" means a non-profit organization which has as its primary purpose the advancement of knowledge in one or more specific fields and which is accredited by the North Central Association of Colleges and Schools.

"Evaluation fees" means fees assessed for evaluation of new sealed sources or devices.

"Human use" means the internal or external administration of byproducts, source, or special nuclear material, or the radiation therefrom, to human beings.

"License fees" means fees for new radioactive material licenses or renewal of existing radioactive material licenses as specified in 32 Ill. Adm. Code 330, 330, 332, 120 or 601, 130.

"Manufacture" means the dispensing or processing of radioactive material or the assembly of radioactive material as sealed sources into devices.

"Materials license" means a radioactive material license issued pursuant to 32 Ill. Adm. Code 330, 332 or 601.

"Material use category" means the category described in Appendix B that represents the use of radioactive material by the licensee or applicant.

"Minor amendment" means changes to a radiation safety program which are administrative in nature, such as changing the name of the Radiation Safety Officer or changing the users specified on a radioactive material license. A fee is charged for minor amendments to licenses when the initial license fee is based on full cost of review.

AGENCY NOTE: Although all licensees are required to obtain amendments prior to instituting administrative changes in the radiation safety program, no fee is assessed for minor amendments to licenses for which a fixed fee is prescribed in Appendix B. The cost to the Department of processing minor amendments to such licenses is incorporated in the initial license fee.

"NARM means naturally occurring radioactive material or accelerator produced radioactive material.

"Permanent jobsite" means any location where licensed material is stored or used for more than 180 days during any consecutive 12 months.

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"Processing" means the preparation, manipulation or conversion of radioactive material.

"Radioactive material" includes byproduct, source, special nuclear material and WARM as defined in this Part.

"Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

"Source material" means:

Uranium or thorium, or any combination thereof, in any physical or chemical form; or

Ores which contain by weight one-twentieth of one percent (0.05%) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

"Special nuclear material" means:

Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Department declares by order to be special nuclear material after the U.S. Nuclear Regulatory Commission or any successor thereto has determined the material to be such, but does not include source material; or

any material artificially enriched by any of the foregoing, but does not include source material.

"Temporary jobsite" means any location where licensed material is used or stored for 180 days or less during any consecutive 12 months.

"Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport, storage or disposal, amenable to recovery, convertible to another usable material or reduced in volume. (Ill. Rev. Stat. 1989, ch. 111, par. 241-3)

(Source: Amended at 15 Ill. Reg. _____, effective January 1, 1991)

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Section 331.110 Exemptions

No application fees, license fees, amendment fees, or renewal fees as described in Section 331.120 shall be required for:

- a) a general license issued pursuant to 32 Ill. Adm. Code 330.210, 330.220(a), (d), (e), (f), (g), (j), or 32 Ill. Adm. Code 330.900(a)(2) and (b)(2).
- b) a license for possession and use of radioactive material applied for by, or issued to, an agency of a state, county, or municipal government, or any political subdivision thereof, except for licenses which authorize distribution of radioactive material, or products containing radioactive material, or licenses authorizing services to any person other than an agency or political subdivision of the state, county, or municipal government.
- c) a license for possession and use of radioactive material applied for by, or issued to, an educational institution as defined in Section 331.30 where such radioactive material specified in the license is used solely primarily for instructional purposes (i.e. teaching and training) purposes.

AGENCY NOTE: An educational institution is a non-profit organization whose purpose is the advancement of knowledge in one or more specific fields and which is accredited by the North Central Accreditation Association.

- d) a license authorizing the use of source material as shielding only in devices and containers, provided, however, that all other licensed radioactive material in the device or container will be subject to the fees prescribed in Appendix A of this Part, an application for amendment to a materials license for which the license fee is not based on full cost, that would not change the material use category or add additional permanent jobsites.

- e) a license authorizing the use of source material as shielding only in devices and containers, provided, however, that all other licensed material in the device or container will be subject to the fees prescribed in Appendix B of this Part.

- f) an application to change the status of a sealed source or device evaluation from "active" to "inactive". For purposes of this exemption, a sealed source or device evaluation is designated "active" if new sources or devices are being manufactured and/or distributed for use. An evaluation is designated "inactive" when

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such sources and devices are no longer manufactured for commercial distribution.

(Source: Amended at 15 Ill. Reg. ____, effective January 1, 1991)
Section 331.120 Payment of Fees

Fees, as shown in the fee schedules of Appendices B and C of this Part, shall be assessed for applications for new licenses, amendments to add or change material use categories, amendments to increase the number of permanent jobsites, renewals of existing licenses, evaluations for new sealed sources and devices, and amendments to existing sealed source and device evaluations. In addition, for licenses requiring full cost review, fees as shown in Appendix B of this Part shall be assessed for all amendments, including minor amendments and amendments to terminate. The following criteria apply to the determination of these fees:

a) Application fees License fees:

- 1) Unless such fee an application for a license is exempt under Section 331.110, or the license fee is to be based on full costs, (see Appendix B), each application for which a fixed fee is prescribed in Appendix A B of this Part shall be accompanied by a remittance in the full amount of the fee. No application will be accepted for filing or processed prior to payment of the full amount specified. Applications for which no remittance is received will be returned to the applicant. The application fee will be charged regardless of the Department's disposition of the application.

- 2) For applications covering only one material use category, the prescribed fee shall be the fee for the appropriate category as specified in Appendix B. For licenses covering more than one material use category, the fee shall be 100% of the highest fee for a material use category for which a license is sought, plus 30% of the fee listed for each other material use category for which a license is sought.

- 3) Multiple use locations: For additional permanent jobsites where radioactive material is stored or used under the same license, the applicant must submit 20% of the applicable material use category fee for each additional site. The total additional fee submitted for multiple use locations shall not exceed 100% of the application fee for that material use category.

- 4) The license fees listed in Appendix B are assessed for the term of the license.

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- b) License fees: Fees for review of applications for licenses are due within thirty (30) days of notification by the Department. For each application on which the review charges are based on full costs, such applicant will be billed at six-month intervals or when the review is completed, whichever is earlier. Each bill will identify the applications and the costs related to each. Full cost reviews:

- 1) Effective January 1, 1991, for license categories based on full cost review, the licensee will be billed quarterly or when the Department has incurred \$25,000 in unpaid full cost expenses, as defined in Section 331.200(c), whichever is earlier. Each bill will identify the applications and the costs related to each. Payment is due within 45 days of receipt.

- 2) Effective January 1, 1991, when the first application, other than an application for a minor amendment is received from a licensee for which Appendix B specifies that the review charges are based on full costs, the applicant shall submit the deposit prescribed in Appendix B of this Part. The licensee will be billed quarterly or when the Department has incurred \$25,000 in unpaid full cost expenses, as defined in Section 331.200, whichever is earlier. Each bill will identify the applications and the costs related to each. Payment is due within 45 days of receipt.

- 3) Applications for minor amendments to licenses subject to full cost reviews as specified in Appendix B, shall pay those fees identified as minor amendment fees at the time the amendment is filed with the Department.

- c) Fees for amendments: All applications for license amendments, listed in Appendix A and amendments to terminate licensed activities that are subject to fees based on the full cost of the reviews must be accompanied by an application fee of \$150. Fees for amendments and fees for amendments to terminate licensed activities that are subject to full cost reviews are due within thirty (30) days of notification by the Department. Each applicant will be billed at six-month intervals for all accumulated costs for each application the applicant has on file for review by the Department or when review is completed, whichever is earlier. Each bill will identify the applications and costs related to each. Amendment fees for materials licenses not subject to full cost reviews are payable at the time the application is filed. Adding material use categories:

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- 1) An application for amendment to a materials license that would add a material use category with a lower license fee must be accompanied by the total fee due for each new material use category as determined by the following formula:

$$F = 0.06 * N * L$$

where

F = Total fee due.
N = Number of years remaining on the license (partial years count as one full year in this calculation).
L = License fee for the new material use category.

- 2) An application for amendment to a materials license that would add a material use category with a higher fee must be accompanied by the total fee due as determined by the following formula:

$$F = (0.2 * H * N) - (0.14 * L * N)$$

where

F = Total fee due.
N = Number of years remaining on the license (partial years count as one full year in this calculation).
H = Higher fee required by new material use category.
L = Highest license fee for a material use category currently authorized by the license.

- d) Renewal fees: All applications for renewals subject to fees based on the full cost of the review must be accompanied by an application fee of \$150. Fees for renewal of licenses subject to full cost reviews are due within thirty (30) days of notification by the Department. Each applicant will be billed at six-month intervals for all accumulated costs on each application that the applicant has on file for review by the Department or when the review is completed, whichever is earlier. Each bill will identify the applications and the costs related to each. Renewal fees for materials licenses not subject to full cost reviews are payable at the time the application is filed. Adding multiple use locations: An application for amendment to a materials license that would increase the number of permanent jobsites must be accompanied by the Total fee due as determined by the following formula:

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$$F = 0.04 * H * N * J$$

where

F = Total fee due.
N = Number of years remaining on the license (partial years count as one full year in this calculation).
H = The highest material use category applicable to the intended use of material at the new permanent jobsite.
J = The number of permanent jobsites to be added. If there are 5 or more permanent jobsites, then J is equal to 5.

AGENCY NOTE: Although a licensee may have more than 5 permanent jobsites, the maximum additional fee for multiple permanent jobsites is the license fee for the highest material use category applicable at the permanent jobsite.

e) Sealed source and device evaluations:

- 1) Requests for a sealed source or device evaluation shall be accompanied by the appropriate fee as specified in Appendix C of this Part.
 - 2) Requests to amend a sealed source or device evaluation must be accompanied by the appropriate fee as specified in Appendix C of this Part.
- e f) Reciprocity fees: Each application for reciprocal recognition of an out-of-state license under 32 Ill. Adm. Code 330.900(a)(1) or (b)(1) shall be accompanied by a remittance of 20% of the license fee applicable fee for the applicable material use category indicated in Appendix B of this Part. However, such fee is not required if the applicant has paid to the Department a reciprocity fee for that license within twelve (12) months prior to the date of commencement of the proposed activity and the proposed activity will not extend past 12 months from the receipt of the reciprocity fee the applicant has paid.
- f g) Fee payments: Payments shall be by check or money order made payable to the Illinois Department of Nuclear Safety.
- g) Should a licensee terminate his license voluntarily prior to the expiration date, the Department will issue a prorated refund of the application/renewal fees for those full years in which the licensee will not be in effect.

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- h) This section applies to all applications on file with the Department on or after the date the Department formally enters into a formal Federal-State Agreement in accordance with Section 6b of the Radiation Protection Act.

(Source: Amended at 15 Ill. Reg. ____, effective January 1, 1991)

Section 331.130 Refunds

The following rules will be followed by the Department when calculating refunds to licensees and applicants for materials licenses:

- a) For licenses for which a fixed fee is prescribed in Appendix B, in the event that the Department terminates a license at the request of the licensee prior to the expiration date, the Department will issue a prorated refund of the license fees for each remaining full year for which the license fee was paid.
- b) For licenses for which a fixed fee is prescribed in Appendix B, in the event that the applicant withdraws, or the Department abandons or denies an application prior to issuance of the license document, sealed source evaluation or device evaluation, the Department will issue a refund totalling 80% of the total fee submitted for that license action.
- c) For licenses for which the license fee is based on full cost review, in the event that the applicant withdraws, or abandons, or the Department denies an application prior to issuance of the initial license, the Department will issue a refund totalling the deposit submitted for that application minus the full cost expenses incurred but not paid by the applicant. In the event the expenses incurred exceed the deposit, the applicant will be billed for the unpaid balance of full cost expenses as defined in Section 331.200. Each bill shall identify the application and the related costs. Payment is due within 45 days of receipt.
- d) For licenses for which the fee is based on full cost review, upon termination of the license the Department will issue a refund totalling the deposit submitted, minus any outstanding full cost expenses. In the event that expenses incurred exceed the deposit, the applicant will be billed for the unpaid balance of full cost expenses as defined in Section 331.200. Each bill shall identify the applications and the related costs. Payment is due within 45 days of receipt.

(Source: Added at 15 Ill. Reg. ____, effective January 1, 1991)

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Section 331.200 Average Cost Per Professional Staff-Hour Full Cost of Review
Fees for licenses, amendments, applications to terminate a license, and renewals which are to be based on the full cost of review, as outlined specified in Appendix A B, of this Part on the following will be calculated based upon the full costs for the review using the professional staff rate of \$60 per hour, on the following:

- a) the time required by Departmental professional staff to conduct the review, including license file review, related travel expenses, correspondence preparation, and supervisory and management review, multiplied by the rate of \$75.00 per hour; and
- b) the time required by Departmental professional staff to conduct inspections or perform confirmatory environmental monitoring, including license file review, related travel expenses, correspondence preparation, and supervisory and management review, multiplied by the rate specified in subsection (a) above; and
- c) the cost of standard lab equipment and supplies, special environmental monitoring equipment, and servicing of such equipment; and
- d) the contractual support service costs, if any, incurred by the Department in conjunction with the review, inspections, and confirmatory environmental monitoring activities.

AGENCY NOTE: These support service costs may include, but are not limited to, rental of specialized equipment, acquisition of additional professional expertise not available within the Department, and laboratory fees charged to the Department.

(Source: Amended at 15 Ill. Reg. ____, effective January 1, 1991)

Section 331.210 Schedule of Fees For Radioactive Material Licenses (Repealed)

Applicants for materials licenses and holders of materials licenses shall pay the fees outlined in Appendix A of this Part.

(Source: Repealed at 15 Ill. Reg. ____, effective January 1, 1991)

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Section 331.310 Failure By Applicant or Licensee To Pay Prescribed Fee

In any case where the Department finds that an applicant or a licensee has failed to pay a prescribed fee required in this Part, the Department will not process any the application and will return the application to the applicant with an explanation that the application is being returned because fees have not been paid. In addition, the Department will have the authority to suspend or revoke, in accordance with 32 Ill. Adm. Code 330.500, any license issued to the applicant or licensee if all required license fees have not been paid.

(Source: Amended at 15 Ill. Reg. , effective January 1, 1991.)

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Section 331.APPENDIX B FEE SCHEDULE FOR RADIOACTIVE MATERIAL LICENSES

MATERIAL USE CATEGORIES

FEE PAYABLE:

Jan.1-Dec.31, 1991 Jan.1-Dec.31, 1992 Jan.1, 1993 and after

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Radioactive Material (as defined in 32 Ill. Adm. Code 310.20)

A. Type A Broad Scope Manufacturing and Distribution - licenses (as specified in 32 Ill. Adm. Code 330.270) for possession and use of radioactive material and for processing or manufacturing radioactive material or items containing radioactive material for commercial distribution, including, but not limited to, manufacturing of a chemical mixture, compound, solution or alloy which is listed in 32 Ill. Adm. Code 330.30:

License Fee: \$13,562

\$16,274

\$19,529

B. Other Manufacturing and Distribution - licenses for possession and use of radioactive material and for processing or manufacturing radioactive material or items containing radioactive material for commercial distribution, including, but not limited to, manufacturing of a chemical mixture, compound, solution or alloy which is listed in 32 Ill. Adm. Code 330.30:

License Fee: \$ 7,290

\$ 8,748

\$10,498

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MATERIAL USE CATEGORIES

MATERIAL USE CATEGORIES

FEE PAYABLE:

FEE PAYABLE:

Jan. 1-Dec. 31, 1991 Jan. 1-Dec. 31, 1992 Jan. 1, 1993 and after

Jan. 1-Dec. 31, 1991 Jan. 1-Dec. 31, 1992 Jan. 1, 1993 and after

C. Distribution - licenses authorizing distribution of radioactive material or items containing radioactive material, not involving processing or manufacturing of radioactive material:

G. Type A Broad Scope Research and Development - licenses (as specified in 32 Ill. Adm. Code 330.270) for possession and use of radioactive material for research and development that do not authorize commercial distribution:

License Fee:

License Fee:

\$ 2,488 \$ 2,986 \$ 3,583

\$ 3,484 \$ 4,181 \$ 5,017

D. Category I Irradiator - Licenses for possession and use of radioactive material as sealed sources in a Category I irradiator:

H. Other Research and Development - licenses for possession and use of radioactive material for research and development that do not authorize commercial distribution:

License Fee:

License Fee:

\$ 1,295 \$ 1,554 \$ 1,865

\$ 2,699 \$ 3,239 \$ 3,886

E. Category II, III or IV Irradiator - Licenses for possession and use of less than 10,000 curies of radioactive material as sealed sources in a Category II, Category III or Category IV irradiator:

I. Service - licenses that authorize services for other licensees, including, but not limited to, leak testing and instrument calibration, but not including waste disposal transportation or radioactive waste broker services:

License Fee:

License Fee:

\$ 4,231 \$ 5,077 \$ 6,093

\$ 3,629 \$ 4,355 \$ 5,226

F. Category II, III or IV Irradiator - Licenses for possession and use of 10,000 curies or more of radioactive material as sealed sources in a Category II, Category III, or Category IV irradiator:

J. Gas Chromatographs and X-Ray Fluorescence Analyzers - licenses for possession and use of radioactive material in sealed sources or detector cells for use in gas chromatographs and x-ray fluorescence analyzers:

License Fee:

License Fee:

\$ 8,286 \$ 9,943 \$ 11,932

\$ 1,000 \$ 1,200 \$ 1,440

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MATERIAL USE CATEGORIES

MATERIAL USE CATEGORIES

FEE PAYABLE:

FEE PAYABLE:

Jan.1-Dec.31, 1991 Jan.1-Dec.31, 1992 Jan.1, 1993 and after

Jan.1-Dec.31, 1991 Jan.1-Dec.31, 1992 Jan.1, 1993 and after

K. Other - all other specific radioactive material licenses not specified elsewhere in this fee schedule, including, but not limited to, licenses for possession and use of radioactive material in sealed sources for use in fixed and portable gauges:

Industrial Radiography (as defined in 32 Ill. Adm. Code 350)

Industrial Radiography at Permanent and Temporary Jobsites - Licenses specifically authorizing use of radioactive material for industrial radiography at permanent or temporary jobsites:

License Fee:

\$ 2,477

\$ 3,567

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Wireline Service Operations (as defined in 32 Ill. Adm. Code 351)

Human use of radioactive material

License Fee:

\$ 8,336

\$ 10,003

\$ 12,004

A. Wireline Service Operations - Licenses specifically authorizing use of radioactive material for wireline services, well surveys, and tracer studies other than field flooding tracer studies:

License Fee:

\$ 3,298

\$ 3,958

\$ 4,749

B. Field Flood Studies - Licenses specifically authorizing use of radioactive material for wireline services, well surveys, tracer studies, or field flood tracer studies:

License Fee:

\$ 6,596

\$ 7,915

\$ 9,498

License Fee:

\$ 6,344

\$ 7,613

\$ 9,135

License Fee:

\$ 4,168

\$ 5,002

\$ 6,002

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MATERIAL USE CATEGORIES

FEE PAYABLE:

Jan. 1-Dec. 31, 1991 Jan. 1-Dec. 31, 1992 Jan. 1, 1993 and after

C. Medical Use - licenses for human use of radioactive material, except licenses for radioactive material in sealed sources contained in teletherapy devices and Type A specific license of broad scope:

License Fee: \$ 3,433 \$ 4,120 \$ 4,944

D. Diagnostic Medical Use - Licenses restricted to only the diagnostic human use of radioactive material listed in 32 Ill. Adm. Code 330, Appendix C, Groups I, II and III; sealed sources for diagnosis; and in vitro kits, except as specified in 32 Ill. Adm. Code 330.220(i):

License Fee: \$ 2,477 \$ 2,972 \$ 3,567

E. Limited Medical Use - licenses restricted to only the human use of radioactive material specified in 32 Ill. Adm. Code 330.220(h):

License Fee: \$ 622 \$ 746 \$ 895

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General licenses

General licenses (as specified in 32 Ill. Adm. Code 330.220(i))

License Fee: \$ 518 \$ 622 \$ 746

MATERIAL USE CATEGORIES

FEE PAYABLE:

Jan. 1-Dec. 31, 1991 Jan. 1-Dec. 31, 1992 Jan. 1, 1993 and after

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Source Material (as defined in 32 Ill. Adm. Code 310.20) and Byproduct Material (as defined in 32 Ill. Adm. Code 332.20)

A. Possession and Use of Source and Byproduct Material - licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations as well as licenses authorizing the possession and maintenance of a facility in a standby mode:

License/Amendment Fee: \$25,000 Deposit + Full Cost \$ 250 \$ 300 \$ 360

Minor Amendment Fee:

B. Possession and use of source material - Licenses for possession and use of source material which require a specific radioactive materials license. This does not include licenses authorizing manufacture and distribution of source material. This does not include specific licenses authorizing source material used for shielding or source material authorized for use in manufacturing operations as described in Material Use Categories 101A and B:

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	Jan. 1-Dec. 31, 1991	Jan. 1-Dec. 31, 1992	Jan. 1, 1993 and after
License/Amendment Fee:	\$25,000 Deposit + Full Cost	\$25,000 Deposit + Full Cost	\$25,000 Deposit + Full Cost
Minor Amendment Fee:	\$ 250	\$ 300	\$ 360

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Radioactive Material Waste Disposal

A. Low-Level Radioactive Waste Disposal Facilities - licenses issued pursuant to 32 Ill. Adm. Code 601 specifically authorizing the disposal of low-level radioactive waste away from the point of generation:

License/Amendment Fee:	\$25,000 Deposit + Full Cost	\$25,000 Deposit + Full Cost	\$25,000 Deposit + Full Cost
Minor Amendment Fee:	\$ 250	\$ 300	\$ 360

B. Radioactive Waste Treatment Facilities - licenses specifically authorizing the receipt of radioactive waste material from other persons for treatment and transfer to a person authorized to receive or dispose of the material:

License Fee:	\$15,925	\$19,110	\$22,932
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MATERIAL USE CATEGORIES

	Jan. 1-Dec. 31, 1991	Jan. 1-Dec. 31, 1992	Jan. 1, 1993 and after
C. Radioactive Waste Broker - licenses specifically authorizing the receipt of pre-packaged radioactive waste material from other persons. The licensee will dispose of the material by transfer to a person authorized to receive or dispose of the material:			
License Fee:	\$ 6,917	\$ 8,300	\$ 9,960

D. Other Radioactive Waste - licenses for other waste disposal methodologies (e.g., 32 Ill. Adm. Code 340.3020 authorizations):

License/Amendment Fee:	\$25,000 Deposit + Full Cost	\$25,000 Deposit + Full Cost	\$25,000 Deposit + Full Cost
Minor Amendment Fee:	\$ 250	\$ 300	\$ 360

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Nuclear Laundries - licenses for commercial collection and laundry of items contaminated with radioactive material:

License Fee:	\$ 5,683	\$ 6,820	\$ 8,183
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109

Decontamination Facilities - licenses that authorize receipt of items contaminated with radioactive material for the purpose of decontaminating such items:

License Fee:	\$ 6,820	\$ 8,183	\$ 9,960
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DEPARTMENT OF NUCLEAR SAFETY
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AGENCY NOTE: The Department anticipates that at some point after January 1, 1993, it will be necessary to increase fees and revise the fee schedule accordingly. However, until such revision is promulgated by rulemaking, the fees in effect on January 1, 1993, will remain in effect.

(Source: Added at 15 Ill. Reg. _____, effective January 1, 1991 _____)

DEPARTMENT OF NUCLEAR SAFETY
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Section 331.APPENDIX C FEE SCHEDULE FOR SEALED SOURCE AND DEVICE EVALUATIONS

REVIEW CATEGORIES

EVALUATION FEE PAYABLE:

Jan.1-Dec.31, 1991 Jan.1-Dec.31, 1992 Jan.1, 1993 and after

200

Device Evaluation - safety evaluation of devices or products containing radioactive material for commercial distribution or evaluation of devices or products containing radioactive material manufactured in accordance with the unique specifications of, and for use by, one person licensed by the Department:

Evaluation Fee: \$ 4,000

\$ 4,800

\$ 5,760

Amendment Fee: \$ 2,000

\$ 2,400

\$ 2,880

201

Sealed Source Evaluation - safety evaluation of sealed sources containing radioactive material for commercial distribution or safety evaluation of sealed sources containing radioactive material manufactured in accordance with the unique specifications of, and for use by, one person licensed by the Department:

Evaluation Fee: \$ 1,000

\$ 1,200

\$ 1,440

Amendment Fee: \$ 500

\$ 600

\$ 720

(Source: Added at 15 Ill. Reg. _____, effective January 1, 1991 _____)

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Cigarette Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 440
- 3) Section Numbers: 440.90 Adopted Action: Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, pars. 441 and 442
- 5) Effective Date of Amendment: December 24, 1990
- 6) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 24, 1990
- 9) Notice of Proposal Published in Illinois Register:
August 24, 1990, 14 Ill. Reg. 13429
(issue date)

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

The full text of the Adopted Amendment begins on the next page:

- 10) Has JCAR issued a Statement of Objections to this Rule?: No
- 11) Differences between proposal and final version: No differences between proposal and final version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule(s): Deletion of obsolete language. Deletion of a provision requiring a guaratee letter from a bank before the Department will accept a personal check in payment of tax stamps. The latter provision is contrary to an amendment to the law, P.A. 85-415, effective January 1, 1988, which provided for release of bonds of "prior continuous compliance taxpayers".

16) Information and questions regarding this adopted rule shall be directed to:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 440
CIGARETTE TAX ACT

Section	
440.10	Nature and Rate of Tax
440.20	Tax--How Paid
440.30	Tax--Who Liable For
440.40	Design
440.50	Tax Stamps--When and By Whom Affixed: License or Permit Required
440.60	Tax Stamps--How Affixed
440.70	Tax Stamps--Affixed Out of State
440.80	Transporter Permits
440.90	Tax Stamps--Purchase of: Cost: Discount
440.100	Returns Required: When Filed
440.110	Books and Records: Examination: Preservation
440.120	Unused Stamps and Meter Units: Sale of: Notice to Department
440.130	Mutilated Stamps
440.140	Tax Meters (Repealed)
440.150	Tax Meter Machine Settings (Repealed)
440.160	Vending Machines
440.170	Sales Out of Illinois
440.180	Sales to Governmental Bodies
440.190	Sample Packages of Cigarettes: Stamps or Other Evidence of Tax Payment Affixed
440.200	Claim for Replacement
440.210	Sale of Forfeited Cigarettes and Vending Machines
440.220	Tax-Free Sales of Cigarettes for Use Aboard Ships Operating in Foreign Commerce Outside The Continental Limits of the United States
440.230	Claims for Credit or Refund

AUTHORITY: Implementing and authorized by the Cigarette Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 453.1 et seq.).

SOURCE: Filed and effective June 17, 1958; amended at 6 Ill. Reg. 2831 and 2834, effective March 3, 1982; codified at 8 Ill. Reg. 17912; amended at 13 Ill. Reg. 10678, effective June 16, 1989; amended at 14 Ill. Reg. 6794, effective April 19, 1990; amended at 15 Ill. Reg. 117, effective December 24, 1990.

NOTE: Capitalization denotes statutory language.

Section 440.90 Tax Stamps--Purchase of: Cost: Discount

- a) Sales of such stamps shall be made by the Department, or any person

- b) The discounts allowable to distributors at the time of purchasing stamps during any year commencing July 1 and ending the following June 30 are as follows:--Prior to December 1, 1955, a discount equal to 1-2/3% of the amount of the tax up to and including the first \$700,000.00 paid under the Cigarette Tax Act by each distributor to the Department during any such year, 1-1/3% of the next \$700,000.00 of tax, or any part thereof, paid under the Cigarette Tax Act by each distributor to the Department during any such year, 1% of the next \$700,000.00 of tax, or any part thereof, paid under the Cigarette Tax Act by each distributor to the Department during any such year, and 2/3 of 1% of the amount of any additional tax paid under the Cigarette Tax Act by each distributor to the Department during any such year. ~~---EFFECTIVE DECEMBER 1, 1955, A DISCOUNT SHALL BE EQUAL TO 1.75% OF THE AMOUNT OF THE TAX PAYABLE UNDER THE CIGARETTE TAX ACT UP TO AND INCLUDING THE FIRST \$3,000,000.00 PAID BY SUCH DISTRIBUTOR TO THE DEPARTMENT DURING ANY SUCH YEAR AND 1.5% OF THE AMOUNT OF ANY ADDITIONAL TAX PAID BY SUCH DISTRIBUTOR TO THE DEPARTMENT DURING ANY SUCH YEAR SHALL APPLY.~~ (Section 2 of the Act)
- c) Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.
- d) In general, remittance for stamps should be in the form of bank cash or check certified check or postal money order made payable to the Department of Revenue. However, the Department will accept the licensee's personal check in payment for cigarette tax stamps if each licensee has on file with the Department a binding guarantee letter from a bank guaranteeing the payment of checks drawn by the licensee on such bank in favor of the Department of Revenue in payment of cigarette tax up to a specified amount, and if the total amount of the present remittance and any other remittances from the licensee that have not cleared the bank when the present remittance is issued are within the limit of the amount guaranteed in the bank's guarantee letter. Postage stamps will not be accepted in payment for cigarette tax stamps.
- ed) In addition, prior to December 1, 1955, the Department will allow a distributor 21 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes at which shall

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be payable within 21 days thereafter. Provided that such distributor has filed with the Department and has received the Department's approval of a bond, which is in addition to the bond required under Section 4 of the Act, payable to the Department in an amount equal to 80% of such distributor's average monthly tax liability to the Department under the Act during the preceding calendar year or \$500,000.00, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 21-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. The distributor's failure to pay any such draft when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft. ON AND AFTER DECEMBER 17, 1985, THE DEPARTMENT SHALL ALLOW A DISTRIBUTOR 30 DAYS IN WHICH TO MAKE FINAL PAYMENT OF THE AMOUNT TO BE PAID FOR SUCH STAMPS, BY ALLOWING THE DISTRIBUTOR TO MAKE PAYMENT FOR THE STAMPS AT THE TIME PURCHASING THEM WITH A DRAFT WHICH SHALL BE IN SUCH FORM AS THE DEPARTMENT PRESCRIBES (i.e., a standard bank draft which the distributor may post-date), AND WHICH SHALL BE PAYABLE WITHIN 30 DAYS THEREAFTER: PROVIDED THAT SUCH DISTRIBUTOR HAS FILED WITH THE DEPARTMENT, AND HAS RECEIVED THE DEPARTMENT'S APPROVAL OF, A BOND (in a form provided for in this section), WHICH IS IN ADDITION TO THE BOND REQUIRED UNDER SECTION 4 OF THE ACT, PAYABLE TO THE DEPARTMENT IN AN AMOUNT EQUAL TO 15% OF SUCH DISTRIBUTOR'S AVERAGE MONTHLY TAX LIABILITY TO THE DEPARTMENT UNDER THE ACT DURING THE PRECEDING CALENDAR YEAR OR \$750,000.00, WHICHEVER IS LESS. THE BOND SHALL BE JOINT AND SEVERAL AND SHALL BE IN THE FORM OF A SURETY COMPANY BOND IN SUCH FORM AS THE DEPARTMENT PRESCRIBES, OR IT MAY BE IN THE FORM OF A BANK CERTIFICATE OF DEPOSIT OR BANK LETTER OF CREDIT. THE BOND SHALL BE CONDITIONED UPON THE DISTRIBUTOR'S PAYMENT OF THE AMOUNT OF ANY 30-DAY DRAFT WHICH THE DEPARTMENT ACCEPTS FROM THAT DISTRIBUTOR FOR THE DELIVERY OF STAMPS TO THAT DISTRIBUTOR UNDER THE ACT. THE DISTRIBUTOR'S FAILURE TO PAY ANY SUCH DRAFT, WHEN DUE, SHALL ALSO MAKE SUCH DISTRIBUTOR AUTOMATICALLY LIABLE TO THE DEPARTMENT FOR A PENALTY EQUAL TO 25% OF THE AMOUNT OF SUCH DRAFT. (Section 3 of the Act) PRIOR CONTINUOUS COMPLIANCE TAXPAYERS, AS DEFINED IN SECTION 1 of the Act, ARE EXEMPT FROM THE BOND REQUIREMENTS NOTED ABOVE. For additional information concerning the exemption, refer to Section 3 of the Act.

(Source: Amended at 15 Ill. Reg. 117, effective December 24, 1990.)

- 1) Heading of the Part: Cigarette Use Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 450
- 3) Section Numbers: 450.10 Adopted Action: Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, pars. 442 and 443
- 5) Effective Date of Amendment(s): December 24, 1990
- 6) Does this rulemaking contain an automatic repeal date? Yes X No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 24, 1990
- 9) Notice of Proposal Published in Illinois Register:
August 24, 1990, 14 Ill. Reg. 13429 (issue date)
- 10) Has JCAR issued a Statement of Objections to this Rule?: No
- 11) Differences between proposal and final version: At the request of the Administrative Code Division, the following changes were made:
 1. In Section 450.10(c), deleted the parenthesis after "...par. 453.31 et seq."
 2. In Section 450.10, checked all titles of Acts and used proper citations throughout.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rule(s): Deletion of obsolete language. Deletion of a provision requiring a guarantee letter from a bank before the Department will accept a personal check in payment of tax stamps. The latter provision is contrary to an amendment to the law, P.A. 85-415, effective January 1, 1988, which provided for release of bonds of "prior continuous compliance taxpayers".

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- 16) Information and questions regarding this adopted rule shall be directed to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

The full text of the Adopted Amendment begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 450
CIGARETTE USE TAX ACT

Section	Nature and Rate of Tax
450.10	Tax Stamps--Affixed Out of State
450.20	Licenses and Permits--Bonds
450.30	Reports and Returns
450.40	Books and Records
450.50	Unused Stamps and Meter Units--Sale of--Notice to Department--
450.60	Mutilated Stamps--Tax Meter Machine Settings
450.70	Cigarettes Used Outside Illinois
450.80	Purchase of Cigarettes by Governmental Bodies for Use
450.90	Claim for Replacement
450.100	Sample Packages of Cigarettes--Stamps or Other Evidence of Tax Collection Affixed
450.110	Sale of Forfeited Cigarettes and Vending Machines
450.120	Claims for Credit or Refund

AUTHORITY: Implementing and authorized by the Cigarette Use Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 453.31 et seq.).

SOURCE: Filed and effective June 17, 1958; codified at 8 Ill. Reg. 13838; amended at 13 Ill. Reg. 10687, effective June 16, 1989; amended at 14 Ill. Reg. 6804, effective April 19, 1990; amended at 15 Ill. Reg. _____, effective December 24, 1990.

NOTE: Capitalization denotes statutory language.

Section 450.10 Nature and Rate of Tax

a) The Cigarette Use Tax is imposed upon the privilege of using cigarettes in this State, and the tax rate is 15 mills per cigarette so used.

b) The tax must be collected by a distributor maintaining a place of business in this State or a distributor authorized by Section 7 of the Act to hold a permit to collect such tax, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor and must be stated on the invoice as a separate item from the selling price of the cigarettes except when the purchaser is a Federal or foreign government agency or instrumentality (see Section 450.50 of this Part).

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c) Distributors who are not subject to the Cigarette Tax Act (Ill. Rev. Stat. 1987, ch. 120, par. 453.1 et seq.) (the Act), but who are subject to the Cigarette Use Tax Act (Ill. Rev. Stat. 1987, ch. 120, par. 453.31 et seq.), must remit, to the Department of Revenue (the Department), the amount of Cigarette Use Tax to be collected by them through the purchase and affixation of tax stamps or meter impression units (where the use of meters is authorized by the Department) to any original package of cigarettes before delivering such cigarettes (or causing them to be delivered) in this State to any purchaser, or (in the case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) by imprinting the language to be prescribed by the Department on the original package of cigarettes beneath such outside wrapper.

d) At the time of purchasing stamps from the Department or any person authorized by the Department, when purchase of the stamps is required by the Cigarette Use Tax Act or at the time when the tax which he has collected is remitted by a distributor to the Department without the purchase of stamps from the Department or any person authorized by the Department when that method of remitting the tax that has been collected is required or authorized by the Act, the distributor will be allowed discounts as follows a discount during any year commencing July 1 and ending the following June 30. Prior to December 1, 1985, a discount equal to 1-2/3% of the amount of the tax up to and including the first \$700,000.00 paid under the Cigarette Use Tax Act by such distributor to the Department during any such year; 1-1/3% of the next \$700,000.00 of tax or any part thereof paid under the Cigarette Use Tax Act by such distributor to the Department during any such year; 1% of the next \$700,000.00 of tax or any part thereof paid under the Cigarette Use Tax Act by such distributor to the Department during any such year; and 2/3% of the amount of any additional tax paid under the Cigarette Use Tax Act by such distributor to the Department during any such year. Effective December 1, 1985, a The discount shall be equal to 1.75% of the amount of the tax payable under the Act up to and including the first \$3,000,000.00 paid by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid by such distributor to the Department during any such year.

e) These discounts are this discount is to cover the distributor's cost of collecting the tax.

f) Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.

g)

In general, remittances to the Department should be in the form of bank cashier's check, certified check or postal money order, made payable to the Department of Revenue. However, the Department will accept the licensee's personal check in payment for tax stamps if such licensee has on file with the Department a binding guarantee letter from a bank guaranteeing the payment of checks drawn by the licensee on such bank in favor of the Department of Revenue in payment of cigarette use tax up to a specified amount and if the total amount of the present remittance and any other remittances from the licensee that have not cleared the bank when the present remittance is issued are within the limit of the amount guaranteed in the bank's guarantee letter. Postage stamps will not be accepted.

hg)

In addition, prior to December 1, 1985, the Department will allow a distributor 21 days in which to make final payment of the amount to be paid for such stamps by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes and which shall be payable within 21 days thereafter. Provided that such distributor has filed with the Department and has received the Department's approval of a bond, which is in addition to the bond required under Section 4 of the Act, payable to the Department in an amount equal to 80% of such distributor's average monthly tax liability to the Department under the Act during the preceding calendar year of \$500,000.00, whichever is less, the bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 21-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. The distributor's failure to pay any such draft when due shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft. ON AND AFTER DECEMBER 1, 1985, THE DEPARTMENT SHALL ALLOW A DISTRIBUTOR 30 DAYS IN WHICH TO MAKE FINAL PAYMENT OF THE AMOUNT TO BE PAID FOR SUCH STAMPS, BY ALLOWING THE DISTRIBUTOR TO MAKE PAYMENT FOR THE STAMPS AT THE TIME OF PURCHASING THEM WITH A DRAFT WHICH SHALL BE IN SUCH FORM AS THE DEPARTMENT PRESCRIBES (i.e., a standard bank draft which the distributor may post-date), AND WHICH SHALL BE PAYABLE WITHIN 30 DAYS THEREAFTER. PROVIDED THAT SUCH DISTRIBUTOR HAS FILED WITH THE DEPARTMENT, AND HAS RECEIVED THE DEPARTMENT'S APPROVAL OF, A BOND, WHICH IS IN ADDITION TO THE BOND REQUIRED UNDER SECTION 4 OF THE ACT, PAYABLE TO THE DEPARTMENT IN AN AMOUNT EQUAL TO 150% OF SUCH DISTRIBUTOR'S AVERAGE MONTHLY TAX LIABILITY TO THE DEPARTMENT UNDER THE ACT DURING THE PRECEDING CALENDAR YEAR OR \$750,000.00, WHICHEVER IS LESS, EXCEPT THAT AS TO BONDS FILED ON OR AFTER JANUARY 1, 1987 SUCH ADDITIONAL BOND SHALL BE IN AN AMOUNT EQUAL TO 100% OF SUCH

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DISTRIBUTOR'S AVERAGE MONTHLY TAX LIABILITY UNDER THE ACT DURING THE PRECEDING CALENDAR YEAR OR \$750,000.00, WHICHEVER IS LESS. THE BOND SHALL BE JOINT AND SEVERAL AND SHALL BE IN THE FORM OF A SURETY COMPANY BOND IN SUCH FORM AS THE DEPARTMENT PRESCRIBES, OR IT MAY BE IN THE FORM OF A BANK CERTIFICATE OF DEPOSIT OR BANK LETTER OF CREDIT. THE BOND SHALL BE CONDITIONED UPON THE DISTRIBUTOR'S PAYMENT OF THE AMOUNT OF ANY 30-DAY DRAFT WHICH THE DEPARTMENT ACCEPTS FROM THAT DISTRIBUTOR FOR THE DELIVERY OF STAMPS TO THAT DISTRIBUTOR UNDER THE ACT. THE DISTRIBUTOR'S FAILURE TO PAY ANY SUCH DRAFT, WHEN DUE, SHALL ALSO MAKE SUCH DISTRIBUTOR AUTOMATICALLY LIABLE TO THE DEPARTMENT FOR A PENALTY EQUAL TO 25% OF THE AMOUNT OF SUCH DRAFT. ~~411. Rev. Stat. 1989, ch. 120, par. 453.37 Section 3-of-the Act.~~ PRIOR CONTINUOUS COMPLIANCE TAXPAYERS, as defined in Section 1 of the Act, ARE EXEMPT FROM THE BOND REQUIREMENTS NOTED ABOVE. (Section 3 of the Act) For additional information concerning the exemption, refer to Section 3 of the Act.

(h) The Cigarette Use Tax collected by a distributor who is liable to collect and remit a like amount of tax with respect to the same cigarettes under the Cigarette Tax Act need not be remitted to the same department under the Cigarette Use Tax Act. In other words, the amount which the distributor is liable to collect and remit under the Cigarette Tax Act with respect to particular cigarettes is offset against the amount collected from the purchaser by such distributor under the Cigarette Use Tax Act with respect to the same cigarettes. Sections 3 and 10 of the Cigarette Use Tax Act permit this offset in order to avoid the double remittance of tax to the State on the same transactions in the case of sales of cigarettes in Illinois.

(i) In those instances in which a distributor is required to affix tax stamps or meter impressions to original packages of cigarettes under the Cigarette Use Tax Act, rather than under the Cigarette Tax Act, the provisions of the Part relating to the Cigarette Tax Act (86 Ill. Adm. Code 440) shall apply and are incorporated herein by reference.

(j) Where cigarettes are acquired for use in this State without Illinois tax stamps being affixed to the original packages thereof and without authorized tax imprints placed underneath the sealed transparent wrapper of such original packages, the user is required to remit the amount of the Cigarette Use Tax directly to the Department. Such tax should be remitted to the Department by the user within 3 days after he acquires such cigarettes.

(Sources: Amended at 15 Ill. Reg. _____, effective December 14, 1990)

1) Heading of Part: Agrichemical Facilities

2) Code Citation: 8 Ill. Adm. Code 255

3) Section Number: Emergency Action:
255.50 Amended

4) Statutory Authority: Illinois Pesticide Act (Ill. Rev. Stat. 1989, ch. 5, pars. 802, 803, 804, 805, 808, 811.1, 814, 815, 818, 819, 820 and 822) and the Illinois Fertilizer Act of 1961 (Ill. Rev. Stat. 1989, ch. 5, pars. 55.2, 55.3, 55.7, 55.14, and 55.18a).

5) Effective Date of Amendments: December 24, 1990

6) If this is emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A

7) Date Filed in Agency's Principal Office: December 19, 1990

8) Reason for the Emergency:

Three hundred and fifty-one agrichemical facilities, which were registered with the Department of Agriculture under Section 255.40(b)(3) of these rules, had until January 1, 1991, to submit all plans and specifications required for permit approval. However, as of the date of the filing of this emergency rule, only 9% of the agrichemical facilities have been able to comply with this filing requirement.

Recently, the Department began receiving notifications from many of the agrichemical facilities that they will be unable to meet the January 1, 1991, filing deadline. Several reasons have been given for not being able to comply: Some facilities are being consolidated and/or upgraded, and the owners have encountered zoning, property transfer, and financing delays. One of the major problems the industry has encountered is that technical engineering services, which may be needed to assist in developing the plans and specifications, are less in number than what was anticipated; thereby, creating delays in obtaining the documentation.

If the deadline is not extended, the Department's only option for failing to comply with the compliance deadline will be to revoke licenses of those agrichemical facilities which we believe would be detrimental to the public interest and welfare. Revoking the licenses of so many agrichemical facilities will have a very

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negative economic impact on the agricultural sector; facility owners and employees will lose their incomes, and producers who need fertilizer applications before spring planting will be unable to obtain such services, which will probably reduce crop yields and incomes to those producers.

9) A Complete Description of the Subjects and Issues Involved:

Upon receipt of a written request, the Department shall grant a 120-day extension for submitting all plans and specifications required for permit approval of facilities registered pursuant to Section 255.40(b)(3) of the rules of this Part. The written request from the owner or operator of an agrichemical facility shall include a descriptive justification why the originally assigned compliance date is unattainable and a statement indicating said extension will not affect the facility compliance with other compliance dates assigned in this Section.

Extending the deadline for compliance by 120 days will give the industry additional time to develop the plans and specifications during the winter months when their business activities are low and any construction may be on hold.

10) Are there any proposed amendments pending to this Part? No

11) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local governments.

12) Information and questions regarding this adopted amendment shall be directed to:

Name: Donna Garman
Address: Illinois Department of Agriculture
State Fairgrounds, Springfield,
Illinois 62794-9281
Telephone: 217/785-0112

The full text of the emergency amendments begins on the next page:

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER i: PESTICIDE CONTROL

PART 255

AGRICHEMICAL FACILITIES

Section

255.10	Definitions
255.20	Incorporation by Reference
255.30	Scope and Application
255.40	Registration
255.50	Permits and Compliance Schedules
EMERGENCY	
255.60	Experimental Permits
255.70	Agrichemical Facility Plans, Specifications and Records
255.80	Secondary Containment
255.90	Operational Area Containment
255.100	Storage Containers and Appurtenances
255.110	Containment Management and Operations
255.120	Site Closures and Discontinuation of Operations
255.130	Inspection and Maintenance
255.140	Dry Fertilizer Storage and Handling
255.150	Dry Fertilizer Blending Operations
255.160	Connections to the Potable Water Supply
255.170	Open Burning

AUTHORITY: Implementing and authorized by the Illinois Pesticide Act (Ill. Rev. Stat. 1987, ch. 5, par. 801 et seq. and Ill. Rev. Stat. 1988 Supp., ch. 5, pars. 804, 811.1 and 819) and the Illinois Fertilizer Act of 1961 (Ill. Rev. Stat. 1987, ch. 5, par. 55.1 et seq. and Ill. Rev. Stat. 1988 Supp., ch. 5, par. 55.18a).

SOURCE: Adopted at 13 Ill. Reg. 13532, effective January 1, 1990; emergency amendment adopted at 15 Ill. Reg. 128, effective December 24, 1990, for a maximum of 150 days.

Section 255.50 Permits and Compliance Schedules
EMERGENCY

- a) An Agrichemical Facility Permit ("Permit") issued by the Department shall be obtained for each existing and new agrichemical facility. Permit applications shall be submitted on forms provided by the Department. The application shall be accompanied by engineering plans and specifications for any construction or modification to be accomplished pursuant to the Permit. Such plans and specifications shall be prepared by an Illinois Pro-

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professional Engineer when required by the provisions of the Illinois Professional Engineering Act (Ill. Rev. Stat. 1987, ch. 111, par. 5101 et seq.). A Permit shall be obtained before the commencement of any construction necessary to meet the earliest compliance date, as determined by the applicable subsection(s) below. A Permit must be amended before the commencement of any modification to the facility. A Permit amendment shall not be required for alterations at the facility. A Permit will be transferred to a new owner or operator upon written notification by the permittee to the Department. Permits shall be renewed every 5 years.

b) An application for a Permit submitted by a corporation shall be signed by a principal executive officer of at least the level of vice president, or a duly authorized representative who is responsible for the overall operation of the agrichemical facility described in the application. In the case of a partnership or a sole proprietorship, the application shall be signed by a general partner or the proprietor respectively. In the case of a publicly owned agrichemical facility, the application shall be signed by either a principal executive officer, ranking official or a duly authorized employee.

c) The Department shall issue a Permit within 90 days after receipt of the application, provided the documents accompanying the application indicate that the agrichemical facility will be in compliance with Sections 255.80, 255.90, 255.100, 255.140, 255.150, and 255.160, as applicable, and the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1001 et seq.). In addition to completed application forms, documents which must be submitted include a location area map, detailed plot plan of the facility, water system protection schematic diagram, narrative description of operational and management practice plan, detailed engineering plans and specifications, process flow diagram for dry fertilizer facilities and any additional information the applicant or Department deem necessary to fully describe the project. The Department shall allow an innovative design to satisfy the structural requirements of this Part if the application for a Permit is accompanied by a registered professional engineer's statement certifying that the design shall provide protection to the environment equivalent to that of this Part. All engineering costs shall be the responsibility

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS

of the person making the request. A Permit issued "with conditions" means that the facility is deficient in some area in order to meet full compliance with the before-tated rules. A Permit with conditions would be issued if the operation of the facility during the period of time that the facility owner was correcting the deficiency does not jeopardize the environment. If the Department fails to grant or deny the Permit as requested or issue with conditions within 90 days from the date of receipt of the application, the applicant may deem the Permit granted for a one year period commencing on the 91st day after the application was received. If the application for a Permit is denied, the Department shall notify the applicant in writing as to why the permit was denied.

d) An agrichemical facility which is registered pursuant to Section 255.40(b)(1) shall meet the following compliance schedule:

Item	Compliance Date
Submittal of all plans and specifications required for Permit approval	Two years after adoption date
Compliance with Section 255.80 (except as provided in subsection (h))	Three years after adoption date for bulk pesticides and four years for liquid fertilizers
Compliance with Section 255.90	Five years after adoption date
e) An agrichemical facility which is registered pursuant to Section 255.40(b)(2) shall meet the following schedule:	
Item	Compliance Date
Submittal of all plans and specifications required for permit approval	Two years after adoption date
Compliance with Section 255.90	Three years after adoption date

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS

- Compliance with Section 255.80 Four years after adoption date
- f) An agrichemical facility which is registered pursuant to Section 255.40(b)(3) or which fails to register under Section 255.40 shall meet the following compliance schedule:

Item	Compliance Date
Submittal of all plans and specifications required for Permit approval	One year after adoption date
Compliance with Section 255.90	Two years after adoption date
Compliance with Section 255.80 (except as provided in subsection (h))	Three years after adoption date for bulk pesticides and 4 years for liquid fertilizers
g) An agrichemical facility which is registered pursuant to both Section 255.40(b)(1) and Section 255.40(b)(2) shall meet the following compliance schedule:	

Item	Compliance Date
Submittal of all plans and specifications required for Permit approval	Three years after adoption date
Compliance with Section 255.80 and Section 255.90	Five years after adoption date
h) An agrichemical facility which is registered pursuant to Section 255.40(b)(4) shall be in compliance with Section 255.80 with respect to its liquid fertilizer storage tanks with capacity of 100,000 gallons or more in accordance with the following schedule:	
Item	Compliance Date
Notify Department of intent to take tank out of service or to comply with Section 255.80	Four years after adoption date

DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS

- Submittal of all plans and specifications required for approval of amended permit Five years after adoption date
- Compliance with Section 255.80 Seven and 1/2 years after adoption date

- i) An agrichemical facility which is registered pursuant to Section 255.40(b)(5) shall be in compliance with Section 255.140 within five years of the adoption date.
- j) An agrichemical facility which is registered pursuant to Section 255.40(b)(6) shall be in compliance with Section 255.150 within five years of the adoption date.
- k) All non-commercial agrichemical facilities shall be in compliance with all of this Part within five years of the adoption date.
- l) Nothing in this Part shall require the loading of pesticide into anhydrous ammonia nurse tanks to be accomplished within an operational area containment structure, provided that a closed transfer system is used.
- m) Upon receipt of a written request, the Department shall grant a 120-day extension to the compliance date for the submittal of all plans and specifications required for permit approval of facilities registered pursuant to Section 255.40(b)(3). Such written request from the owner or operator of an agrichemical facility shall include a descriptive justification why the originally assigned compliance date is unattainable and a statement indicating said extension will not affect the facility compliance with other compliance dates assigned in this Section. To be considered, such written request shall be submitted to the Department within 45 days of the otherwise applicable compliance date.

(Source: Emergency amendment adopted at 15 Ill. Reg. 128, effective December 24, 1990, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the week of December 17, 1990 through December 21, 1990, and have been scheduled for review by the Committee at its February, 1991 meeting. Other items not contained in this published list may also be considered by the Joint Committee at its February meeting. Members of the public wishing to express their views with respect to a proposed rule should submit written comments to the Joint Committee at the following address: Joint Committee on Administrative Rules, 509 South Sixth Street, Room 500, Springfield, IL 62701.

Second Notice Expires	Agency and Rule	Start of First Notice	Scheduled for Consideration by JCAR
1/31/91	Office of the State Fire Marshal, Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 170)	8/3/90 14 Ill. Reg. 12373	February, 1991
1/31/91	Office of the Comptroller, Claim Eligible to be Offset (74 Ill. Adm. Code 285)	10/19/90 14 Ill. Reg. 17139	February, 1991
2/4/91	Department of Professional Regulation, Private Detective, Private Alarm and Private Security Act of 1983 (68 Ill. Adm. Code 1240)	2/16/90 14 Ill. Reg. 2456	February, 1991
2/4/91	Department of Central Management Services, Conditions of Employment (80 Ill. Adm. Code 303)	10/26/90 14 Ill. Reg. 17399	February, 1991
2/4/91	Illinois Commerce Commission, Right-of-Way Precondemnation Negotiations by Telephone Companies (83 Ill. Adm. Code 780)	8/17/90 14 Ill. Reg. 13100	February, 1991

ILLINOIS REGISTER

PROCLAMATION

90-558
HOMEMAKERS EXTENSION ASSOCIATION WEEK

Whereas, the Illinois Homemakers Extension Federation has provided educational opportunities to homemakers in Illinois for more than 70 years; and

Whereas, the federation's 1991 theme is "Preserve the Past--Challenge the Future"; and

Whereas, the organization originated in Kankakee County, is active in 101 Illinois counties, and has more than 31,000 members statewide; and

Whereas, the Homemakers Extension Federation is dedicated to education and the quality of family life and works closely with the Cooperative Extension Service of the University of Illinois to make improvements in those areas;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim February 17-23, 1991, as HOMEMAKERS EXTENSION ASSOCIATION WEEK in Illinois, in appreciation of the many contributions the organization has made to the advancement of education among our homemakers.

Issued by the Governor December 14, 1990.

Filed with the Secretary of State December 24, 1990.

90-559
NURSE RECRUITMENT DAY

Whereas, today's nurse is an educated professional, working in a technical, sophisticated environment and providing compassionate, concerned care to patients and families; and

Whereas, the nursing profession is currently experiencing a serious shortage, with the U.S. Department of Health & Human Services predicting a 33% shortage nationally by the year 2010; and

Whereas, hospitals, clinics, home health agencies, hospices, the Armed Forces, and others are concerned over the growing shortage of nurses; and

Whereas, Nurse Recruitment Day focuses on the nursing profession and is especially targeted to students in the 754 high schools in Illinois. Nurses from hospitals all over the state will visit our high schools to discuss nursing, demonstrating various areas of care and providing information on a variety of subjects;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim January 25, 1991, as NURSE RECRUITMENT DAY in Illinois and encourage young people and others to consider the nursing profession as a career choice.

Issued by the Governor December 14, 1990.

Filed with the Secretary of State December 24, 1990.

90-560

ARMY ROTC WEEK

Whereas, the Army Reserve Officer's Training Corps (ROTC) provides exceptional leadership instruction at eleven of our state's leading colleges and universities; and

Whereas, the ROTC's purpose is to develop selected men and women for positions of responsibility as officers in the active Army, Army National Guard, and Army Reserve; and

Whereas, the efficiency and vitality of our military depends to a great extent upon the high caliber of young officer accessions, more than half of whom are obtained each year through the ROTC program; and

Whereas, many civilian and government leaders in our state and in our nation have been ROTC members; and

Whereas, the ROTC is one of the most respected organizations in our country;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim April 14-20, 1991, as ARMY ROTC WEEK in Illinois, in recognition of the graduates of this outstanding program and the program's 75th anniversary.

Issued by the Governor December 18, 1990.

Filed with the Secretary of State December 24, 1990.

90-561

CRITICAL CARE NURSE WEEK

Whereas, critical care nurses are registered professional nurses who provide critically ill patients with optimal care through individual professional accountability, thorough knowledge of the interrelatedness of body systems, and appreciation of the collaborative role of members of the health care team; and

Whereas, the American Association of Critical Care Nurses (AACN) was established in 1969 to help these nurses keep abreast with the technical advancement characteristic of the critical care environment. AACN currently has over 65,000 members nationwide, including 3,200 in Illinois; and

Whereas, in addition to basic preparation, a critical care nurse must have advanced knowledge of psychosocial, physiological, and therapeutic components specific to the care of the critically ill. The CCRN Certification, obtained only after passing a comprehensive examination and acquiring professional experience, is the national recognition of professional proficiency in critical care nursing;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim March 17-23, 1991, as CRITICAL CARE NURSE WEEK in Illinois.

Issued by the Governor December 18, 1990.

Filed with the Secretary of State December 24, 1990.

90-562

FREE ENTERPRISE AND MARKETING WEEK

Whereas, business educators and their institutions play a vital role in supporting government, business, and commercial life in the United States of America; and

Whereas, men and women trained in office education, marketing, merchandising, and data processing occupations, all of which contribute to efficient business life, are essential to the continued prosperity of Illinois; and

Whereas, the teaching of business and free enterprise by America's business educators and their institutions deserves recognition and encouragement; and

Whereas, recognition should be given to the significant efforts and educational contributions that business educators and their institutions give to the free enterprise system and the well-being of business and governmental life in the United States;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim February 10-16, 1991, as FREE ENTERPRISE AND MARKETING WEEK in Illinois.

Issued by the Governor December 18, 1990.

Filed with the Secretary of State December 24, 1990.

90-563

ILLINOIS SCHOOL PSYCHOLOGISTS ASSOCIATION WEEK

Whereas, for more than 40 years, Illinois has been recognized as a leader in providing school programs and services for children with physical, mental, emotional, or educational problems; and

Whereas, Illinois school psychologists have demonstrated their concern for children's rights to free and appropriate public education tailored to their individual capabilities; and

Whereas, the school psychology profession and the Illinois School Psychologists Association have dedicated their efforts to serving the mental health and educational needs of all children;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim February 24-March 2, 1991, as ILLINOIS SCHOOL PSYCHOLOGISTS ASSOCIATION WEEK in Illinois and commend the school psychology professionals on their dedication to the health and well-being of our students.

Issued by the Governor December 18, 1990.

Filed with the Secretary of State December 24, 1990.

90-564

LAND SURVEYORS' MONTH

Whereas, land surveying is one of the oldest technical services of mankind. Our complex civilization depends more and

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more on surveyors' accuracy and skills to determine not only property rights, but also the methods of design and construction; and

Whereas, the surveying skills of George Washington, the Commander-in-Chief of our Revolutionary Forces, may have had considerable influence on the winning of our national independence since Washington, a land surveyor before the war, directed the planning of military operations and selected the battle sites; and

Whereas, more than 80 years later when the states were threatened by a cruel division, another great president and former surveyor, Abraham Lincoln, became recognized as the "Savior of Our Country" after directing the campaigns that preserved our nation;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim February 1991 as LAND SURVEYORS' MONTH in Illinois, in recognition of the two "Land Surveyor Presidents," George Washington and Abraham Lincoln, whose birthdays are observed this month.

Issued by the Governor December 18, 1990.

Filed with the Secretary of State December 24, 1990.

REVENUE, DEPARTMENT OF
86 Ill. Adm. Code 440 Cigarette Tax Act (P-13429/90; A-117)
86 Ill. Adm. Code 450 Cigarette Use Tax Act (P-13429/90; A-122)

Joint Committee on Administrative Rules
Second Notices Received
135

EXECUTIVE ORDERS AND PROCLAMATIONS
PROCLAMATIONS
90-558 Homemakers Extension Association Week 136
90-559 Nurse Recruitment Day 136
90-560 Army ROTC Week 137
90-561 Critical Care Nurse Week 137
90-562 Free Enterprise And Marketing Week 138
90-563 Illinois School Psychologists Association Week 138
90-564 Land Surveyors' Month 138

A - Adopted Rule

AR - Adopted Repealer

C - Notice of Corrections

CC - Codification Changes

E - Emergency Rule

ER - Emergency Repealer

M - Modification to meet JCAR objections

O - JCAR Statement of Objections

JCAR - Joint Committee on Administrative Rules

ACTION CODES

P - Proposed Rule

PF - Prohibited Filing Ordered by JCAR

PP - Peremptory or Court ordered Rules

PR - Proposed Repealer

R - Refusal to meet JCAR objection

RC - Statement of Recommendation

S - Suspension ordered by JCAR

W - Withdrawal to meet JCAR objections

EXAMPLE:
AGRICULTURE, DEPARTMENT OF
8 Ill. Adm. Code 285 Ill. Grain Insurance Act (P-18048/85; A-6818)
TITLE PART ACTION CODE PAGE NUMBER PREVIOUS VOLUME PAGE NUMBER ACTION CODE

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-9786.

AGRICULTURE, DEPARTMENT OF
8 Ill. Adm. Code 255 Agrochemical Facilities (E-128)
CHILDREN AND FAMILY SERVICES
89 Ill. Adm. Code 431 Confidentiality of Personal Information of Persons Served by the Dept. (P-4303/90; A-24)
CONSERVATION, DEPARTMENT OF
17 Ill. Adm. Code 1590 Falconry & the Captive Propagation of Raptors (P-16174/90; A-32)
CORRECTIONS, DEPARTMENT OF
20 Ill. Adm. Code 405 School District #428 (P-1)
EDUCATION, STATE BOARD OF
23 Ill. Adm. Code 226 Special Education (P-11068/90; A-40)
INSURANCE, DEPARTMENT OF
50 Ill. Adm. Code 3119 Pricensing & Continuing Education (P-12127/90; A-69)
NUCLEAR SAFETY, DEPARTMENT OF
32 Ill. Adm. Code 331 Fees for Radioactive Material Licenses (P-15672/90; A-90)
PUBLIC AID, DEPARTMENT OF
89 Ill. Adm. Code 104 Practice in Administrative Hearings (P-15)

CI - 1

CI - 2

JANUARY 4, 1991

ILLINOIS REGISTER
SECTIONS AFFECTED INDEX

VOL. 15, ISSUE #1

[illegible]

TYPE OF RULEMAKING		ACTION CODES	
am	= amendment to existing Section	A	= Adopted rule
cc	= codification changes	C	= Correction
n	= new Section	CC	= Codification Changes
r	= repeal of existing Section	E	= Emergency rule
rc	= reclassified	F	= Failure to Remedy
#	= renumbered	M	= Modification
		O	= JCAR Objection
		P	= Proposed rule
		PF	= Prohibited Filing
		PP	= Peremptory rule
		R	= Refusal to Modify or Withdraw
		RC	= JCAR Recommendation
		S	= Suspended rule
		W	= Withdrawal of Proposed rule

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TITLE 50	
3119.20	am
3119.30	(P-12127/90; A-69)
3119.40	am
3119.50	(P-12127/90; A-69)
3119.60	am
3119.70	(P-12127/90; A-69)
3119.80	am
3119.90	(P-12127/90; A-69)
3119.Ex.A	am
3119.Ex.B	am
3119.Ex.C	am
3119.Ex.D	(P-12127/90; A-69)

<u>TITLE 86</u>	
440.90	am (P-13429/90; A-117)
450.10	am (P-13434/90; A-122)

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SECRETARY OF STATE

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288 Centennial Bldg.
Springfield, IL 62756
(217) 782-9786

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Amount

_____ Complete Set(s) (9 volumes) of the Illinois Administrative Code at \$210.00 per set	_____
_____ Volume 1 (includes Titles 1- General Provisions; 2 - Governmental Organization; 3 - Legislature; 5 - Courts; 8 - Agriculture and Animals; 11 - Alcohol, Horse Racing, and Lottery; and 14 - Commerce) at \$25.00 per copy	_____
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_____ Volume 9 (includes Titles 92 - Transportation (Parts 426 through 2520); and 95 - Veterans and Military Affairs) at \$25.00 per copy	_____

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STATE

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